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ABSTRACT

This curriculum manual provides 8 days of training for child protective services (CPS) personnel (social workers and administrators) working in the White Mountain Apache tribal community. Each of the first seven units in the manual contains a brief description of contents, course objectives, time required, key concepts, possible discussion topics, instructional materials and resources, an outline of the presentation, review questions, and references. Some units also contain a glossary, worksheets, and hands-on activities. The units cover: (1) White Mountain Apache community context (cultural values, community family life, and family lifestyles from traditional to contemporary); (2) medical and psycho-social issues in CPS (failure to thrive, indicators of sexual child abuse, diagnosis of physical and sexual abuse, and abuser characteristics); (3) tribal and federal laws and legal issues in CPS; (4) CPS case management processes and procedures; (5) White Mountain Apache tribal protocols for CPS reporting, investigation, agency roles and responsibilities, and juvenile and criminal court procedures; (6) tribal community practice (tribal government, casework supervision, and program administration); and (7) healing and wellness (traditional beliefs, spirituality, and prevention of worker burnout). A final section contains teaching tools and tips for trainers. (SV)

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Nohwii Chaghashe baa da gontdzaa

WHITE MOUNTAIN APACHE TRIBE

(protect our Apache children)

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The White Mountain Apache Child Protection Service Training Curriculum

Nohwii Chaghashe Baa da gontzaa

(Protect our Apache children)

was funded through the memorandum of Agreement #AGIK0000025 between the Bureau of Indian Affairs Division of Social Services, Central Office, Washington D.C. and the National Center for Child Abuse and Neglect, Washington D.C.

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White Mountain Apache Project Staff

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This manual was produced through the support that was provided by Mr. Jim Auchter representing the National Center for Child Abuse and Neglect in Washington D.C., and in collaboration with Ms. Betty Tippeconnic of the Bureau of Indian Affairs Social Services Central Office, Washington, D.C. They recognized that Indian specific child protective services curriculum must originate in Indian communities in order for it to be effective.

Appreciation is also expressed to the White Mountain Apache Tribe for their commitment and dedication to achieving this goal. Ms. Yvonna Redsteer, Director of Tribal Social Services, provided overall direction and support in the accomplishment of this task. Ms. Sara Stevens, a consultant to the Tribe, was most instrumental in maintaining the focus and direction of the project.

Mr. Steve Lacy and Ms. Aleene Hughes of Bureau of Indian Affairs Phoenix Area Social Service unit provided support, encouragement and resources. Mr. Ben Nuvamsa, Superintendent of the Fort Apache Agency, Bureau of Indian Affairs, was helpful in facilitating the collaboration between the Bureau of Indian Affairs, Arizona State University, and the White Mountain Apache Tribe.

Additionally, the support that this project has enjoyed from the White Mountain Apache Tribal Council and Chairman Ronnie Lupe provided an avenue for the participation of many Tribal, Indian Health Service and federal agencies which provide services to children.

A project of this magnitude required that channels of communication be kept open and that everyone be receptive to constructive criticism, while focusing and maintaining the integrity of the project's tasks. Fortunately, all key players recognized the importance of this project and worked collaboratively despite differences in perspectives which each brought to the project. The fusion and incorporation of these varying viewpoints is what has made this project a success.

Edwin Gonzalez-Santin

Edwin Gonzalez-Santin, MSW

Principal Investigator

FOREWORD

The development of this child protective services training manual was made possible through the administrative collaboration of the National Center for Child Abuse and Neglect, Washington, D.C., Bureau of Indian Affairs, Central Office Social Services Branch, Bureau of Indian Affairs, Phoenix Area Social Services Unit, Bureau of Indian Affairs, Fort Apache Agency, White Mountain Apache Tribal Administration and Social Services Department, and Arizona State University School of Social Work. It is a testimony to the commitment of key administrators of these various governmental entities' commitment to children that has enabled this manual to be completed.

The focus and direction of the project was developed jointly which required the commitment of many hours devoted to arriving at mutually acceptable goals and expectations. The focus of the project was not merely the curriculum which follows, but additionally the process by which the White Mountain Apache Tribe continued its community-wide efforts at addressing child abuse and neglect. There were several factors that enabled this project to proceed to its conclusion.

First, the sensitivity and commitment to the enhancement of social services to children has been well supported by the Tribal Council. Their understanding that children are a vital and essential resource to maintaining the culture is evidenced by the support they gave to this endeavor.

Secondly, the Bureau of Indian Affairs Central Office Social Service Branch played a key and vital role in channeling funds through Phoenix Area Office and Fort Apache Agency to the White Mountain Apache Tribe. Any problems that arose during the course of this effort were solved in concert by all key participants. Essential to this task was the overriding value which was maintained among the key players. That value was respect for the White Mountain Apache people, respect for the strengths which this community has called upon in addressing its own needs.

Third, the selection of trainers was accomplished via a jointly staffed selection committee composed of Bureau of Indian Affairs, Tribal and state representatives. These representatives were guided by the desire to select individuals who had the knowledge, skills and demonstrated expertise in the respective areas identified in the curriculum. These areas are: White Mountain Apache community context, medical and psychosocial issues, legal issues, child protective services case work processes, construction of protocols, community practice, and healing and wellness. This process enabled the careful selection of trainers and curriculum developers. The selection of trainers also required that extensive efforts be made in collaboratively identifying community members who could provide the necessary information in the development of the curriculum. Additionally, some of these individuals were incorporated as trainers. Their insights on their community were key in developing the curriculum content.

Fourth, the involvement of Ms. Michelle Bergen, Mr. Andrew Lacapa, Ms. Rea Lupe, and Ms. Cheryl Redsteer as Arizona State University student research assistants proved to be invaluable in conducting the necessary research and in the preparation of this document. Mr. Lacapa's art work conveys positive attitudes relative to the White Mountain Apache community. Ms. Michelle Bergen, Ms. Rea Lupe, and Ms. Cheryl Redsteer provided essential culturally sensitive editing expertise in "Community Context" and "Healing and Wellness" . Ms. Bergen provided exceptional editing and collaborative writing skills needed in the section on medical issues. Ms. Redsteer assisted the principal investigator in analyzing the data from the satisfaction surveys. She also provided support to Mr. Joseph Enos in his area. The support of these students enabled this project to maintain its sensitivity to the unique needs of the White Mountain Apache community.

Finally, I am deeply indebted for the support that was provided by the supervisors of the trainees who attended the first training session utilizing this child protective services curriculum. The training was held October 13 through 23, 1992 in Hon Dah, Arizona. Ms. Carla Alchesay-Nachu of Indian Health Service; Mr. Ben Nuvamsa, Superintendent, Bureau of Indian Affairs, Fort Apache Agency; Mr. Andrew Kane, Tribal Police Chief; Mr. Damien Kirwan, Director, White Mountain Apache Tribal Guidance Center; Ms. Yvonna Redsteer, Director, White Mountain Apache Tribal Social Services; Ms. June Leslie, Director, Youth Group Home; Honorable Anna Goseyun, Tribal Juvenile Judge; and Mr. Steve Lacy and Ms. Aleene Hughes of the Bureau of Indian Affairs, Phoenix Area Office Social Services Branch, are all to be commended for encouraging and allowing their staff to participate in the training.

In summation, this curriculum is a reflection of how three distinct governments, federal, tribal and state, can work together to address this serious problem of child abuse and neglect. The driving belief that children are to be protected and respected has been a principle with which everyone involved was in agreement with and kept in the forefront of their consciousness. We at the Arizona State University School of Social Work's Office of American Indian Projects have felt most fortunate to have been involved in such an important project.

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Ms. Aday is a member of the White Mountain Apache Tribe. Ms. Aday obtained her Masters in Social Work degree at Highland University in Las Vegas, NM. She holds the Army rank of Captain and currently works on the William Beaumont military base in El Paso, TX. Ms. Aday formerly served as Assistant Chief for the Community Mental Health Services at Fort Bliss, TX performing administrative duties and provided counseling to service members. Ms. Aday also served as Child Welfare Social Worker for the White Mountain Apache Tribe from May 1990 to August 1990.

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Ms. Madison is the Director of Education and Prevention Department and is responsible for supervising Prevention Specialists, recruiting and training Speaker's Bureau volunteers, scheduling sexual abuse prevention presentations throughout Maricopa County and speaking to children, teachers and parent groups. Ms. Madison has developed and implemented curriculum for preschool, elementary, junior high, high school and college age students on sexual abuse prevention. She has a background in prevention, data management and collection, casework and training in disability issues. She earned a Bachelor of Arts Degree in Behavioral Science at Grand Canyon University.

Jim Zion, Esq., Solicitor of Supreme Court of Navajo Nation

Mr. Zion is a graduate of the University of Saint Thomas who completed his law degree from Columbia University in 1969. He has written extensively and provided training in Children's Law, Indian Customary Law and the Law of Human Rights. He has been Solicitor for the Navajo Nation Supreme Court. He has served in that capacity from 1981-83 and 1990-present.

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Ms. Fohrenkam is a member of the Navajo tribe and has worked with all tribes in Arizona helping to develop child welfare programs such as, foster care, adoptions, in-home services, child protective services and day care. She was responsible for the coordination of services provided by the Administration for Children, Youth & Families to the various tribes. Ms. Fohrenkam facilitated and negotiated intergovernmental agreements and memoranda of understanding between the State agency and tribes with regard to children's services. She authored the chapter on "Child Abuse & Neglect" of **Collaboration: The Key**, a model curriculum on Indian Child Welfare, 1989.

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Joseph Enos, Special Projects Director at Gila River Arts and Crafts Center

Born on the Tohono O'odham Reservation, August 5, 1943, Joseph Enos was fortunate to have parents who believed in the importance of speaking English as well as his native tongue. This created an ever-broadening desire to understand and appreciate all people, their interests, spirituality, creation and culture. It is his belief that all cultures can grow and nurture each other without losing their own identity. Due to his pursuits in this, Joseph has been recognized and is considered the "spiritual leader" of the tribe...a modern day "Medicine Man". Besides working at Gila River Arts and Crafts Center, Joseph also conducts workshops on self-esteem, Native American Culture and Spirituality. He enjoys his work and realizes he can make a difference for the better.

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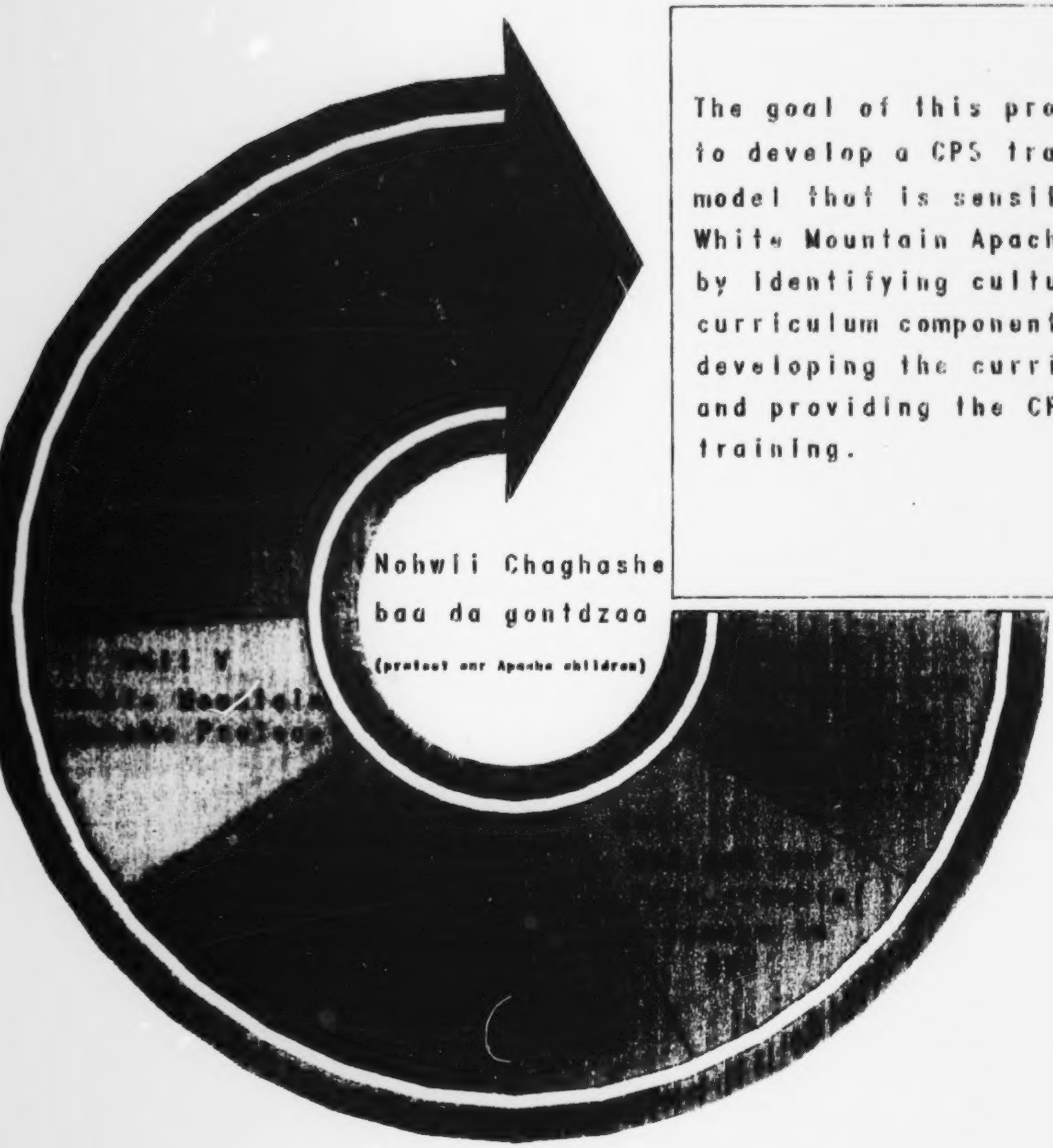
The goal of this project is to develop a CPS training model that is sensitive to White Mountain Apache needs by identifying cultural and curriculum components, developing the curriculum, and providing the CPS training.


Nohwii Chaghashe
baa da gontdzaa
(protect our Apache children)

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INTRODUCTION

This curriculum is organized so that it can be taught on eight consecutive days or in any combination thereof. The material is written so it can be used by anyone. The training manual is designed so that new information can be added to any section as it becomes available or needed. In short this manual is a living document. The units are organized so that one must initially understand the historical context of White Mountain Apache society. This enables anyone using the curriculum to have an appreciation of their culture. The design attempts to demonstrate a culture-sensitivity requisite in utilizing the knowledge and skills inherent in each subsequent unit. Therefore the sequencing in this manual is significant and important as cumulative knowledge is built upon incrementally. Yet the flexibility does exist that one can begin reading any part of the manual and extract viable information.

Additionally, this curriculum design requires that participating agencies identify tribal and federal employees who have responsibility in the child protective services (CPS) process to receive the training. It is also important to have a mix of direct workers and their respective administrators so as to maximize a dialogue around issues, concerns, and problems that arise in handling CPS cases.

This curriculum was designed to build upon the expressed support of the tribal administration. It will require that arrangements be made to free up the calendars for those workers and administrators in order to ensure their participation. For example, some of the key units that must be represented are as follows: 1) Tribal Social Services, 2) Tribal courts, 3) Tribal Health Department, 4) Tribal police, 5) Indian Health Services medical personnel, 6) Tribal Head Start, 7) Inter Agency Coordinating Committee, 9) Tribal Mental Health, 10) Indian Health Service Mental Health and 11) Tribal Council representatives (or any committee who have responsibility for human services).

The identified curriculum units for instruction are as follows:

Unit I **White Mountain Apache Tribe Community Context**
This unit was chosen to be the lead section in that it sets the framework by which any worker who will need to address CPS issues, will have a historical appreciation of the White Mountain Apache Tribe. This is done by examining the cultural values, norms and influences that impact community family life. Family patterns are explored while examining the continuum that exists from traditional to contemporary family lifestyles.

Unit II **Medical and Psycho-social Issues in CPS**

This unit will present the physiological and psycho-social information most frequently used in assessing children. It will describe medical examinations and findings regarding sexual abuse of children. Additionally, the psycho-social dynamics of child abuse and its treatment are studied.

Unit III **Legal Issues in CPS: Tribal and Federal**

Professionals who provide protective services for children must understand the tribal and federal laws which are designed to protect children. Participants will learn the basis for those laws and gain an understanding of the sovereignty and jurisdictional issues that these laws have in the White Mountain Apache Community.

Unit IV **White Mountain Apache CPS Processes, Resources and Systems**

This unit examines the CPS process, the resources that are required to deal with these processes and the systems which a worker must understand and work within to successfully conduct a CPS investigation and bring a case to termination.

Unit V **White Mountain Apache Protocol**

The section on addresses the need for tribal protocols and, through case examples, trainees will role play the handling of CPS cases. The intent is that this will lead to successful inter-agency cooperation from intake to termination of a CPS case.

Unit VI **Community Practice**

Community Practice examines the basic concepts of tribal governments and the alternatives to tribal governments. Its goal is to strengthen the tribal government by using a rational community planning method based upon documentation of needs combined with an understanding of available resources. Emphasis will also be placed on casework supervision and the key role it plays in interagency coordination.

Unit VII **Healing and Wellness**

This unit is designed so that the physical and mental health context of the White Mountain Apache Community is discussed from a historical, cultural perspective. Additionally, an experiential exercise - **Talking Circle** - will be utilized to teach trainees how to avoid "burn-out" which plagues professionals who deal with CPS cases. This exercise facilitates the participant's appreciation of the importance that spirituality plays in the healing process of both clients and workers.

Further more, this curriculum was designed to include hands-on activities for participants that will reinforce the knowledge and skills required to work in CPS. Case examples are used throughout the units and it is important for trainers to actively engage participants in discussion. Additionally, in Unit I, local community members can be utilized who can share their rich personal experiences which have helped them to understand their own community. For example, tribal elders can be used extensively in both Unit I and Unit VII.

Finally, this curriculum design includes sets of questions in each unit which serve as pre- and post-tests for trainees to measure the retention and understanding of the information presented. In the end, the trainee will gain an appreciation of the complexities in providing a culturally-sensitive and competent context for the delivery of CPS services in the White Mountain Apache Tribal Community.

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UNIT I

White Mountain Apache Tribe Community Context

Prepared by:
Noreen (Katy) Aday, MSW

TABLE OF CONTENTS

Course Outline

Training Outline 8

I. **Community Profile** 12
- Contemporary Lifestyle 13
- Traditional Apache Ceremonies 15
- The Impact of Acculturation on Apache Values 17

II. **Historical Perspective** 19
- Historical Chronology 20
- Family 23
- Marriage 24
- Clans 25
- Children 25
- Elderly 26
- Post-Reservation Life/Education 26
- Economics 28
- Values 29
- Sunrise Dance 29
- Selecting a Sponsor 31
- Food and Gift Exchange 33
- The Dance 33
- Phases 34
- Conclusion 37

CHILD PROTECTIVE SERVICES TRAINING
COURSE OUTLINE

UNIT I: COMMUNITY CONTEXT
"NOGWII CHAGHASEE BAA DA GONLDZAA"
PROTECTING OUR APACHE CHILDREN

COURSE LENGTH: ***6 HOURS***

DESCRIPTION:

WMAT community context: The focus of this course is to create greater awareness and understanding of the White Mountain Apache Tribal community by examining the cultural values, norms and influences that impact community family life. Family patterns will be explored and the continuum for traditional and contemporary lifestyles which exist for the WMAT will also be discussed.

COURSE OBJECTIVES:

1. To describe the predominant paterns of family relationships which exist in the White Mountain Apache community
2. To identify and list WMAT values that influence family life
3. Through the use of "Cultural Continuum" describe the traditional to contemporary perspective of the White Mountain Apache
4. To identify various "Rites of Passage" which prepare children to take their place in Apache society
5. Through the use of traditional literature compare and contrast WMAT historical and current values regarding children
6. To increase the worker's self-awareness of their own individual values and attitudes

KEY CONCEPTS:

Spirituality, values, kinship, autonomy, sharing and generosity, compassion, courage, appreciation, competence/mastery, storytelling, cultural continuum, massaging, Sunrise Dance Ceremony, rites of passage, family patterns, roles of family members

POSSIBLE DISCUSSION TOPICS:

1. Using Apache stories addressing the traditional view of children, in small groups, participants will read, discuss and identify values inherent in the story.
2. Value clarification exercises will be used to compare and contrast personal values and beliefs with WMAT values.
3. Participants will be asked to identify their personal attitudes and beliefs which may impede effective interaction with WMAT families
4. Through small group discussion, participants will address the issue of "What it means to be Apache." In particular, participants will examine the roles of men, women and children
5. Through small group discussion, participants will address the issue of "What it meant to be Apache 150 years ago." The traditional roles of men, women and children will be discussed.
6. Participants will compare and contrast traditional perceived family configurations of White Mountain Apache Tribe with family compositions from the 1990 census. Patterns of family composition with relevance to the census data, will be explored.
7. Using a case vignette, participants will examine their own values and attitudes discussing the impact of these on practice decisions and relationships with clients.

Materials:

1990 WMAT Census Report (re: family composition, income, marital status, religion, etc.)
Stories about Apache Children:
  Creation
  Coyote Daughter - Incest
  He Brings Back a Mountain - Sharing
  The Abandoned Children - Abandonment
Flip Chart
Overhead transparencies
Handouts defining key concepts
Film on Apache life or values (Sunrise Dance Ceremony)
WMAT ordinances and/or proclamations which affirm children and/or family life

COMMUNITY CONTEXT
TRAINING OUTLINE

I. Introduction

II. Presentation by Mr. and Mrs. Riley Ramon
  A. Alcoholism
  B. Child Abuse
  C. Cultural Values

III. Community Picture
  A. Historical Perspective
    1. Setting
    2. Lifestyle
    3. Cultural traditions
    4. Economy
    5. Education
    6. Substance abuse
    7. Religion

  B. Contemporary Perspective
    1. Setting
    2. Lifestyle
    3. Cultural traditions
    4. Economy
    5. Education
    6. Substance abuse
    7. Religion

IV. Values and Traditions of the Apache Culture
  A. Rites of Passage
    1. Sunrise dance
  B. Use of ceremonies, symbols, prayers and creation stories
  C. Influence of family life, male and female roles
  D. Influence of organized religion

V. Family Structure
  A. Predominant Family Patterns and Relationships
    1. Roles and interactions of family members
      a. Decision making
      b. Discipline
      c. Child-rearing practice
    2. Impact of Abusive/Dysfunctional Interactions within the Family
      a. Incest
      b. Alcoholism

c. Spousal abuse

VI. Self-Awareness
  A. Personal values and attitudes -- effect on practice
  B. Expectations in relationships with clients

Community Profile

The Community Profile of the Fort Apache Indian Reservation distributed annually by the Arizona Department of Commerce gives a brief, descriptive statement describing the reservation.

> The Fort Apache Indian Reservation, home of the White Mountain Apache Tribe, is located in east central Arizona in portions of Navajo, Apache and Gila Counties. It is 75 miles long and 45 miles wide, encompassing 1.6 million acres.
>
> The Reservation has a wide range of topography and climate. The southwestern desert foothills with an elevation of 2,700 feet in the Salt River Canyon contrast sharply with the mountainous, forested northeastern portions of the Reservation where elevations exceed 11,000 feet in the Mt. Baldy area.
>
> White River, the largest population center of the Reservation and the seat of Tribal Government, is located 35 miles south of Show Low, 95 miles northeast of Globe, and 190 miles northeast of Phoenix. At an elevation of 5,300 feet, Whiteriver enjoys a moderate four-season climate.

Since the establishment of the Fort Apache Indian Reservation on June 7,1897, the population has increased from 1811 to 10,394 in 1990 (U.S. Census Bureau,1990). Traditionally Apaches made their homes in wickiups. Wickiups are dome-shaped frames covered with brush with a wooden door and dirt floors. The wooden doorways were incorporated during early reservation days. Today, there are a limited number modern homes with the comforts of indoor plumbing and heating built on the reservation through monies available by the Housing and Urban Development. A majority of these homes are low income housing. There is little change in the number of family members living under one roof because of the high unemployment rate of 32% (BIA, 1990) and the shortage of housing available.

Contemporary Lifestyle

The lifestyle of the Apache has changed dramatically from early reservation days to present. Older Apache women still wear the traditional campdress but no longer the buckskin shoes. The cowboy style clothing of early reservation days are still worn by the older generation of men and those of the younger generation who participate in western cowboy activities. The modern Apache now wear contemporary clothing of the dominant society. Traditional clothing is saved for traditional ceremonies or special occasions.

Traditional foods such as acorn stew, corn mush, ash bread, and tortillas are still eaten by Apache families. Those foods no longer make up the staple diet of the Apache. Due to the accessibility of fast foods and prepackaged foods, from the Tribal Supermarket, these are now a large part of the Apache diet.

With the influence of Christianity, national holidays are celebrated along with traditional ceremonies such as the Sunrise Dance. An important holiday for the White Mountain Apache Tribe is Labor Day because it coincides with the Tribal Fair and Rodeo. The Tribal Fair and Rodeo is a big tourist attraction for the reservation.

The economy of the White Mountain Apache Tribe early reservation days are based on agriculture and government support. The Apache had to rely on the trading posts for food and materials. Presently, the principal economic activities are best stated by the Arizona Department of Commerce.

> The economy of the White Mountain Apache Tribe is closely tied to the natural resource base. The predominant sources of livelihood include timber operations, tourism, livestock management and government employment. Agriculture development is beginning, with a 900 acre irrigated farm currently producing livestock feeds.
>
> Included within the Reservation is an 800,000 acre ponderosa pine forest which also supports large stands of spruce and fir - the resource base for a thriving Tribal forest products industry. The Tribe owns and operates a sawmill that employs 450 people on a permanent basis.

The scenic mountain resources also support a substantial level of tourism activity. The Tribe has developed fishing lakes, campgrounds and retail stores to support increasing numbers of seasonal tourists. Sunrise Ski Resort, owned and operated by the Tribe, has developed into a profitable enterprise and is the Tribe's second leading employer.

In early reservation days, children were taken to government boarding schools and mission schools to be educated and acculturated. There is now a public school system on the reservation for all school-age children to attend from grades preschool to 12th. Beside the public schools there is a mission school and government schools.

As with the rest of the world, the White Mountain Apache Tribe has its share of substance abuse which began with alcohol and now extends to recreational drugs brought onto the reservation. The Tribe has a detoxification treatment center, the Rainbow Center. The Indian Health Service Whiteriver Unit has treatment programs for both on and off the reservation as necessitated.

In early reservation days, religion was based on the traditions of the White Mountain Apache with the influence of Christianity this has changed. Churches of different denominations have descended upon the reservation. Many of the Apaches attend to both traditional and Christian beliefs and there are others who attend to one, the other or none at all.

Traditional Apache Ceremonies

In the tradition of the White Mountain Apache Tribe, the rite of passage continues through the six life stages and for pubescent girls is done through a puberty ceremony called a Sunrise Dance. The six life stages according to Bell (1974)

> The Apache recognizes six stages of life, sometimes spoken of as "lives": infancy, childhood, youth, young adulthood, middle age and old age. Each period is characterized by different physical and mental conditions and differences in the attitudes of others towards the individual.
>
> Babies are generally considered to be infants until approximately two years of age; childhood lasts until puberty. Youth includes the period from puberty to marriage, after which individuals enter young manhood and womanhood. Middle age extends from the ages of forty to sixty; old age begins after sixty or sixty-five. Men and women are at their physical prime between eighteen and forty-five but assume roles of leadership and maximum influence primarily during middle age, from forty to sixty. (II-15) Bell (1974) describes the girls' puberty ceremony:
>
> The major ceremonial event of the apache year is the girls' puberty rite, an event occurring in the summer months in which pubescent girls are prepared adulthood. The fundamental theme of the ceremony is to give the girl the most desirable qualities of the mythological figure, Changing Woman, longitivity [sic] and the physical capabilities of perpetual youth.
>
> The ceremony, which lasts approximately four hours, consists of eight distinct parts, each beginning and ending with specific chants, separated by lengthy pauses. Through these chants, the presiding medicine men instructs the power of Changing Woman to enter the girl's body for a period of four days, conferring upon her physical strength, an even temperament and the assurance of wealth, and thereby preparing her for a useful and rewarding adult life. In addition to benefits accruing to the girl herself, the puberty rite strengthens reciprocal ties between clans and reaffirms cultural values and traditions, thus benefitting the community whole.

The use of ceremonies, symbols and prayers for the Apache, ties that person to the traditional ways of the Tribe. Identifying oneself as an Apache, enables the renewing of the self as evidenced by seeking knowledge from tradition.

The Impact of Acculturation on Apache Values

Apache values had previously directed the patterns of social interaction between family members, clan members and other kinship relations. As Apaches have become acculturated these interactions are now similar to that of the dominant culture, there are less restrictions since they can no longer be enforced by the older generation. The predominant Apache family structure in early reservation days was that of clan and kinship bonds which was due to the dependence upon each other for survival. Presently, Apaches still identify with their clan but no longer have close relationship with clan members. This is related to the increasing self-sufficiency of nuclear family units. The Apache culture traditionally supported a matriarchal society. Since the influence of the dominant society, males hold the dominant role in family units. The male in some families have all the decision making tasks. Children are left to the women to rear until such time it is necessary for the male to help or takeover. This type of child rearing continues today.

Children were rarely disciplined because they needed to learn through their own mistakes to be independent and self-sufficient. With the advent of boarding schools, discipline practices have become increasingly harsh. Combined with stress of modern day living child abuse and neglect has increased in the Tribe.

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HISTORICAL PERSPECTIVE

We are Athabaskan-speaking people and we are not alone. The Alaskan Indians along with the Canadian Indians, the Navajos, and the Tonto Apaches, are also Athabaskan-speaking people. The San Carlos Apaches, Fort McDowell Apaches, Chiracahaua, Mescalero Apaches, Jicarilla Apaches, Fort Sill Apaches, and the Kiowa Apaches make up the rest of the Athabaskan-speaking people.

The origin of the Western Apache is unknown. There are many different theories. The most popular theory is that the Apaches came from the Bering Strait, following animals for food. Our present Chairman, Ronnie Lupe, has a theory that I like much better. Here is his story:

> Mr. Lupe believes that we lived here since the beginning of time. He said, "The ancient ones tell us that first there was complete darkness, and our creator breathed life into an Apache, and the Apaches were created. Since the beginning of time, we have always been here." Other tribes call us the Mountain People. We have always been close to the mountains. We regard these mountains as our sacred gound, the holy place.
>
> We were created during the time when the supernaturals walked on the earth. With the supernatural powers, animals and birds spoke the same language and communicated with the Apaches. Our ancestors told us many stories regarding the magnificent powers and strengths the Apache had. It was almost like an Apache could be at several places at one time.
>
> The Anglo society has its own version as to where each nation or people came from. Contrary to their belief and to their study, we believe we have always been here.
>
> We, the Apaches, were given tools to love, and we were taught to understand the four seasons. The choice that we made as human beings was to become independent on earth. We chose this place long before anyone ever did. We stood our ground when anyone interfered. We have always had this land, the White Mountains, the trees, the rivers and the valleys. It's so beautiful here. We made the right choice in becoming independent and fighting for our lands. That is one story of how we (Apaches) came to be.

The historical significance that led to the establishment of reservation life is as follows.

Historical Chronology:

1400 to 1700	- Western Apaches moved to Eastern Central Arizona.
1750 to 1821	- Spanish influence, agriculture, horses, raiding, and military control.
1853	- Gadsen Purchase - Az. comes under control of United States
1870	- Fort Apache is established
Middle	- About 400 Apaches work in mines and lived off the 1870s reservation.
1874	- "Removal Program" to San Carlos by Dept. of Interior.
1881	- Policy established which allows White Mountain Apaches to return across the Salt River. Geronimo, Juh, and Nachez flee.
1882	- Battle of Dry Wash, North West corner of White Mountain. Last major campaign with the Western (coyotero) Apache.
1884	- Several groups of Apaches move to Fort Apache.
1886	- General Miles accepts Geronimo's surrender.
1897	- By the Act of Congress, Fort Apache becomes an officially recognized Indian Reservation. This separates the White Mountain Apache Reservation from the San Carlos Reservation. Bureau of Indian Affairs agencies are maintained at both places. The population on the Fort Apache Reservation is 1,811.
1912	- Arizona becomes a state.
1922	- Oct 19 - By executive order, the Fort Arizona Military Reservation is placed under control of the Secretary of Interior.
1934	- Indian Reorganization Act
1960	- March 18 - Congressional Action: Fort Apache Military Reservation and Theodore Roosevelt School transfer to Secretary of Interior the rights to use any part of it for school or administrative purposes.

The establishment of the reservation changed our traditional Apache way of life. The addition of a cash and credit economy, the imposition of a system of legal constraints, and being forced to acculturate through mandatory government school programs and missionary conversion were key factors in changing the Apaches lifestyles or ways. It is the cumulative effect of these impositions that have produced the alternatives of the Apache life as it is manifested today.

The establishment of agencies, for example, in Cibecue and Whiteriver led to a redistribution and concentration of the Apache people. Distinctions between bands and local groups ceased with time. Due to the introduction of trading posts and forced attendance to schools, the Apache people no longer "wintered below" on the Salt and Gila Rivers.

The Apache people were made dependent upon the trading post for food and materials. Due to the imposition of a cash and credit system along with government funding support, the traditional family cluster and headman system were weakened. Now it requires one person to purchase food instead of a group of people.

In the past, food gathering, hunting, and farming were necessary. This took the entire cooperation of the local family group. With the new system and restrictions that would occur later by the tribal council on hunting, dependence of the family on the entire local group was shifted to the immediate family. Because of this emerging dependence on welfare, the nuclear family is learning to become increasingly self-sufficient and less dependent on the family cluster or headman system.

A long time ago all Apaches were equal. We were all poor in money but were wealthy with our culture and traditions. Older Apache people have criticized those who have become more self-serving and supportive of a higher standard-of-living in the western culture, because of all the inequalities that arise. Present income (e.g. cattle, wage labor and government welfare assistance) has caused a shift that has created a class system. This is reflected in the vast difference in lifestyles among Apache families. Families of the lower socioeconomic level suffer a loss in self-esteem. They believe they have not lived up to the standards imposed by the Western culture. This loss of self-esteem and reliance on a welfare system, have caused a host of other social problems which include alcoholism, child abuse, neglect and unemployment, just to name a few.

Despite these trials, the Apache people have survived. We know who we are and where we come from. We were placed on reservations to be destroyed, but we are still here. We maintain our identity through our dances, songs, and language. We are, and always will be, fighters with a sense of independence and always will be. We, alone place restrictions on ourselves!

The future of our people has always mattered to us. We must remember we are and will continue to be competitive in today's world. We are one of the most stable and prosperous Indian tribes in America. There are over 11,000 enrolled White Mountain Apaches, and we control 1.6 million acres of some of the richest land in the Southwest. We have the skills to master whatever we choose.

Before reservations, the Apache people wandered far beyond their homes into Oklahoma, Texas, New Mexico, and Arizona. We traded and visited with other Indian tribes, and explored in Mexico. We had distinct bands by clan groups. We lived in wickiups made of mud mixed with beargrass. Four or five poles served as the foundation for the home. Later on, a door made out of wood was added. The majority of the Apache people now live in Housing & Urban Development (HUD) housing. The homes built in the early seventies are made out of wood; the homes that are now being built are made out of bricks. The homes are nice and are at low cost to tribal members. The families choose which floor plan they would like for their new home. Although these homes have been helpful, the tribe estimates a need for 700 more.

Our life style before reservation life was neither nomadic nor sedentary. The Apaches moved from winter to summer lands with the seasons, engaging in agriculture along with traditional hunting and foraging. We survived mainly on hunting and gathering. We did not depend on the crops because we were constantly on the move. We planted in the early spring; in the early fall we harvested. We planted mostly corn, beans, and squash. Once this was done, we set out to pick prickly pears, berries, herbs, acorns, and pinon nuts. The older Apaches who did not want to move on, or were disabled, along with a few children, were usually left behind to care for the fields.

Acorns and beans were collected in July and August. In the early fall we returned to our farm sites and harvested our crops. October and November was spent gathering pinon nuts and juniper berries. The food we gathered was eaten and some was stored in baskets for the winter months. Late fall was the hunting season. We did not go to our summer camps until a good supply of game had been secured for all the people.

In prereservation days a good portion of our meat supply consisted of stolen livestock. Raiding parties used to go out for livestock such as cattle, horses, oxen, mules and burros. The Apache men brought home more than just livestock, they brought back women and children. As long as the women worked hard and did not attempt to escape they were not mistreated. Moreover, they were treated as any other Apache woman.

The main reason for raiding was to avenge deaths suffered at the hands of the enemy. The maternal relatives of the slain warrior organized the war party. General George Crook (21st Infantry) stated, "We were the best light cavalry infantry unit in all of North America."

There may have been five distinct groups of Apaches, we thought, and still believe to this day, who are quite different from one another. The Apache groups fought with each other and never formed a unified political group (maybe we should now). We all had our own territorial boundaries and many times trespassers were forcibly expelled or killed.

Each Apache group had two or four bands. These bands numbered anywhere from 387 individuals to 748 individuals. Each local group had exclusive rights to certain farm sites and hunting localities. Each was headed by a chief, who directed the raiding, food-gathering expeditions, farming projects and activities involving other local groups and tribes.

From these local groups we formed two to six family units. These family units were no more than large matrilocal extended families. These extended families were comprised of three to eight nuclear households. For a nuclear household to be recognized, at least one female member had to be a descendant or sibling of an older woman in the group. However, were exceptions. If an only brother wanted to stay with his family, then he was allowed to bring his wife into the group. The people identified a couple by indicating their clan affiliation; the family unit was made not from territorial locations but by the clan of its core lineage.

The headman, as is mentioned before, decided when to raid, discussed prospective marriages, and helped settle disputes that arose between family units and within the local group. The ability to intervene was held in high regard, and it was primarily on this basis that local group chiefs were chosen. Most often the headman was an outsider, a relative by marriage. The headman was sometimes a member of the unit's nuclear clan.

Every morning it was customary for the headman to lecture the family members. He reminded them to be careful, to watch out for one another, to be hard workers, and to remain together. It was understood that know one was to complain.

FAMILY

Customs were established to improve our social relations and encourage respect for one another.

Certain familiarities, such as joking with or touching other clan members - particularly those of the opposite sex - were thought to be disrespectful. Some customs resulted in what appeared to be almost complete avoidance of other family members. Most of these customs were displayed in the presence of someone in authority, but if someone was considered your equal this rule did not apply.

If there was a close bond between a maternal uncle and a boy, he would regularly turn to his mother's brother when in need of serious counsel, even if the uncle lived with another family unit.

Each gender had to show respect for his/her cousins and siblings of the opposite sex. The same was true when dealing with fathers and all maternal kinsmen of the first and second generation. First cousins from the mother's, sister offspring had a joking relationship and to a lesser degree, this also seemed to have been true of paternal grandparents. Parents-in-law had direct authority over their daughter's husband until he showed himself to be a good provider, he was obligated to perform any task they requested. The strictest avoidance and respect were enforced between a man and his mother-in-law. They could not look at each other, touch each other or sit in the same dwelling. Under normal circumstances they were not permitted to address each other except through another person.

These brief descriptions show you the central behaviors exhibited by matrilineal kin relationships. The matrilineal clan heads were the individuals to whom an Apache turned for support, who trained and directed him until he reached adulthood, who provided him in times of crisis with comfort and the assurance of loyalty and support. These matrilineal kinsmen are very important and critical to ordering the individual's social relations, in assigning him roles, in structuring his or others' expectations or others and in establishing relatively fixed guidelines for the organization of his own behavior.

MARRIAGE

You were not allowed to marry someone closely related to you or related closely to your parents. To marry outside your clan was viewed favorably. On very rare occasions persons belonging to "related" clans married as did paternal cousins. Marriages like these were criticized and thought of as incestuous. They also resulted in the deaths of the individuals involved.

In prereservation times few men had more than one wife. Those men who did were usually chiefs or considerably wealthy. The majority of marriages were monogamous. If someone had more than one wife, these women usually came from the same clan, and it was not uncommon to see a man marry a pair of sisters.

Divorce was fairly common and very easily obtained. There were no rules that prevented either party from remarrying. Sometimes the divorced partners remarried almost immediately. Causes for a divorce included laziness, incompetence or unwillingness to perform expected tasks, failure of a man to observe customs with his wife's kin, fighting, maltreatment of the wife, unreasonable jealousy, and infidelity. To obtain a divorce, a man or woman just said he or she was not going to return, gather up all his or her belongings and walk away.

CLANS

There are sixty-two clans. Clans considered themselves related through maternal lineage. The clan is thought of as being made up of descendants, not a common ancestor.

Marriage into the same clan was not approved; although marriage into the father's clan was permissible and sometimes even preferred. Members belonging to the same clan were expected to aid each other and sometimes it was thought necessary for the entire clan be called upon to avenge a wrong done to one of its members. The clan's main functions were to regulate marriage, extend obligatory relationships beyond the extended family and help with major projects, for example, a Sunrise Dance. This required more people than were available in the family or local group.

CHILDREN

Apache children were both wanted and loved. Infants were cared for by their parents and relatives. They were watched carefully to prevent injury. Children were carried in cradleboards. The cradleboard was made out of yucca boughs, which were cut and scraped until they were smooth. A roof was attached to protect the baby from rain and the glare of the sunlight.

Children were taught to respect people and obey their elders. Children were not allowed to be bossy, because they are only children. They learned to share, to get along with others and to show kindness. Children were not allowed to tease or ridicule other people. Stories were told to emphasize the importance of these teachings. Children were not allowed to attend wakes, funerals, Gaan dances and were never to be left alone.

The main emphasis on child rearing was not to be lazy. Parents, relatives, and grandparents teach these values. When walking or playing with your children, one must explain slowly and carefully.

Discipline come from parents and relatives. It was believed that children should not be slapped or pushed. They should not be yelled at or called names. Harsh punishment might break the children's spirit, which in turn, could cause him or her to give up on life and die.

Clans and family clusters had a lot to do with the roles of the children. Boys were trained at an early age to play with bows and arrows and were encouraged to play war games. As they grew older they were expected to help out, whether it was catching horses, hunting, raiding or repairing weapons. At the age of 12 a boy was considered a man. He had to learn from his father, uncles or other men the basics of survival before becoming a warrior. It is said that to prepare for battle, Apache boys learned to endure excruciating tests of self-inflicted pain and not fear death. Males were the providers and warriors.

Girls were more important than boys. When boys married they lived with the girls family and therefore, his "hard work" was missed. On the other hand, the daughters brought men into the family to help. Girls were allowed to play until the age of 7 or 8. They played house and carried dolls in cradleboards. At the age of 7 or 8 they were taught to gather wood, herbs, and pinon nuts and taught to cook, clean the house, and care for their younger brothers and sisters. A young girl was considered a woman when she had her first menstrual cycle. The parents, if they could afford it, sponsored a Sunrise Dance for her.

ELDERLY

We value our elderly, they are considered wise because they have a lot of knowledge of the past. They have endured and survived hardships and are a product of those times. They are consultants for Sunrise Dances and other ceremonies. The elderly are the cultural link to grandchildren. In the old days they stayed behind to tend our farms.

Now, some elderly are placed in nursing homes. Many of them feel forgotten. They believe they are no longer useful. Their own children may neglect and abuse them. Moreover, their grandchildren are disrespectful to them. They are yelled at and told they do not know what they are talking about.

Not all families are as harsh with their elders, but many are. They are not considered burdensome. To live to an old age means an elder has lived a good, long life. On the other hand, to die young means the person or someone in his or her family must have done something wrong. An old person should always be considered highly respected.

POSTRESERVATION LIFE/EDUCATION

With the establishment of the reservation, the opening of school, and the enforcement of regular attendance, things started to change. Children were taken away from their families and placed in boarding schools. Harsh treatment from the white people discouraged Apaches from accepting their way of life. A boarding school was established at Fort Apache.

Apache parents did not want their children to attend school, so they tried to do anything they could to keep their children with their families. The children attending school had to have physical examinations at the beginning of the year. They had medicine men perform dances that would physically exhaust their children so they would not pass these tests. They dipped their children in the cold river hoping they would catch cold. Sometimes it worked and sometimes it did not and the children died.

These schools were like military schools. No one was allowed to speak Apache, and if the student did, he or she was punished. Bells regulated the boarding school schedule. A seventy year old man told the following story:

> "A bell outside of the building rang every fifteen minutes. Along with the other children, we had to line up at the sound of the bell. When the order was given, we would march to the dining room. There a prayer was said and a bell would ring and the boys sat down at the table. A second ring was the signal to start eating. Once we were through eating the bell would ring again. We would get up, stand by our tables and then march out."

The school day started at 8:00 am and ended at 4:00 pm. Children who became homesick or tired of school ran away and returned home. If the runaways were found, they were brought back and placed in guard houses or jail houses. The boarding school went up to the sixth grade. Some Apaches finished the sixth grade between the ages of eighteen and twenty.

Apaches long ago did not value the white man's system of education. Their children were taken away and they had no control over how their children were being treated. The children were taken away from their homeland, culture, language and family. They could not understand the English language but yet were told to speak it. Their discipline was harsh. They lost their self-esteem, and their way of life was changed. This was the white people's way of controlling us to stay on the reservation.

Today, there is an importance placed on education. At the same time there is a quest for personal identity within our culture. Children are now saying, "I am White Mountain Apache," and it is important to them.

We have a brand new junior high school, five elementary schools that are overflowing with young Apache children, a high school and we have a Head Start program. Northland Pioneer College has a satellite program on the reservation. Many White Mountain Apaches have degrees ranging from AA's to Master degrees.

No one can hold us back but ourselves. We now have a say in our children's education, what kind of discipline we want, what is going to be taught and how it is going to be taught. The children are allowed to speak Apache with the encouragement and support of Apache teachers and aids. The board of education consists of White Mountain Apache members. When it comes to our children the saying is really true, "The sky is the limit", not only for them but for us, as a tribe.

ECONOMICS

Education was not the only thing that changed our way of life. Our food-gathering activities all but came to a halt; we now gather food in the spirit of a family outing. Reservation-imposed hunting seasons restrict our hunting. We still farm, but not enough to live on year round. We go to the store to buy food and other supplies.

Income comes from cattle sales, government subsidies in the form of welfare checks, Social Security for the elderly, and limited government and tribal jobs. We have a high percentage of unemployment. Half of the adult women work. Presently, many of the highly skilled positions on the reservation are held by Anglos. Although the Apaches hold the greater number of jobs on the reservation, outsiders tend to hold those positions which carry the most responsibility and attract the highest wages.

Perhaps now it is easier to understand why the older Apaches criticize those who have become more self-surviving and supportive of a higher standard of living in the western culture. With economic activity as it is now we are no longer working together; the earning power is of the individual. Now, "the survival of the fittest" rules.

Alcoholism is a no win situation. Substance abuse goes way back, back to the 1800s when we used to make an Apache corn drink called tiswin and drank only on special occasions. When Anglos placed us on reservations, they would get the men drunk to capture them. Once captured they were kept drunk until they became dependent on the alcohol and then it was taken away.

Once placed on the reservation we had everything taken from us. Our movements were controlled, our children taken to school, rations given to us, we became dependent on government "handouts." Despite all this, our spirit was not taken from us. We have the skills and potential to master anything. The Apaches have survived this long and we will continue to survive. Why lose to alcohol? We as a tribe and family members can help control alcohol. Why did we allow this to happen? Today, we have the power to change this situation. We have educated Apaches, caring individuals, and our identity. We know who we are and where we come from. We need to take action now to solve our problems. We need to face these problems and learn different ways to survive. It can be done, other tribes have done it; so can we.

Reservation life has dramatically changed. Family ties have suffered. Clans are still close but not as close they used to be. We still come together for occasions such as a Sunrise Dance, a wake, or a curing ceremony. We stay with our immediate family. Restrictions of not marrying someone in a related clan are breaking down. Housing has disbanded the family. Sometimes it is hard to find a home within one's community. The economy has a great influence on our lives. We have become aware of the standard of living. It is hard to say, but jealousy, disagreement and favoritism among and within our own homes and relatives have weakened our clan system.

VALUES

What are our values? What does value mean to you? Value defined in a dictionary is "the quality or worth of something that makes it valuable." Apaches value family, culture, language, natural resources, and the wisdom of our elders. We were taught to respect all that lives, to pray, and to thank the Great Spirit for our lives. We were also taught to hold onto our values and to take only what we need. When hunting, one should never kill more than is needed. Along the way we have lost some of these values. We disobey the hunting regulations and we do not take care of our land and ourselves like we used to. Our children see us as role models and they will do as we do. We should value each other and depend on each other for support. We need to cut through the jealousy and hatred and get back to the basics. We must respect, admire and love for our family, co-workers and ourselves. We must share our feelings and thoughts with one another.

We need to give thanks for our values and our families. We have family members who contribute part of themselves when they set good examples. When someone does well in a rodeo, do we value his skills? Of course we do and so do the other cowboys. He is looked upon favorably and sought out for advice. We have great basketball players, baseball player, hunters, etc.

We value our natural resources. We must take care and be mindful of our timber, livestock, hunting and the fish hatcheries. Our lakes, which are great for fishing, our mountains for camping and Sunrise Ski Resort are all ways of making ourselves self-sufficient. We value our freedom to be Apaches.

SUNRISE DANCE

The Sunrise Dance is the most elaborate ceremony directly affecting the greatest number of people. The Sunrise Dance is performed to help a young girl enter adulthood with essential qualities and to reach old age. A long time ago almost every Apache girl had a sunrise dance or naies. Today, this is no longer true. There are basically two reasons for this:

1). Increased contact with white and Indian missionaries who strongly criticized the "old way religion." Young Apaches have come to doubt the use of a sunrise dance.

2). Cost of a sunrise dance. The expense in money and labor is so much that most people are unable or unwilling to afford a dance.

Most parents would not think to have a sunrise dance if they cannot afford one. Another consideration is relatives; their help and support is needed. Sunrise Dances are not only for relatives. Nonrelatives also offer to help. They do not usually make large contributions, but they help out in different ways. They may help by offering to let you borrow their pickup truck, cook, or just by being at the dance.

A Sunrise Dance used to only be given if the girl wanted one. Talking her into having a dance or forcing her to agree was not allowed. Her wishes were respected.

Actual preparations for a Sunrise Dance does not start until after the girl has her first menstrual period. As soon as she menstruated her parents chose a group of elderly people, called "nde guyane" or wise people, who decide when and where the dance is to be held and, most importantly, who will serve as the girl's "sponsor."

Setting the date is not a problem; the dance is held in late June, July or August, regardless of when she menstruated. There are two reasons why dances are held in the summer months. First, the evenings and nights are warm. Secondly, it attracts more people. Boarding school students coming home on vacation are able to attend.

With the date set, the site for the dance must be decided. A site should be close to water, and a large supply of wood is needed. Finally, there should be enough space for temporary housing for friends and relatives. With the help of the elderly people a medicine man is chosen.

Only the girl's father used to visit the medicine man and ask him to do the dance. The father would set out before sunrise; he would take along an eagle feather, turquoise, cattail pollen, and money to pay the medicine man's fee. The father would approach the medicine man and they would discuss the reasons for the meeting. After the medicine man accepted the offer to conduct the dance, he would put his hand out, inside (palm) up. He held it like this while the father put the powder on his hands. With the powder a cross was made on his hand in the four directions. Afterward, $50 was placed in the medicine man's hands. The father would ask again "Will you sing for my daughter's Sunrise Dance?" The medicine man would say "Yes." The date was finalized and the medicine man would show up two days early to have everything ready for the big dance.

Selecting a Sponsor

The wise people also help to select the "sponsor'" a very important role. The woman chosen has a significant role in the dance; she must also make a large financial contribution. An important consideration when choosing a sponsor is that the woman must not belong to the girl's clan or to the father's clan; she also must not be a member of any of the related clans.

Once all the possible selections of women are discussed, the final decisions are made on the basis of good character and wealth. A sponsor should be someone with a spotless reputation. She must be a good person, who is strong, works hard, and is never lazy. She should not say things that will upset other people. This person should not be involved with alcohol in any way nor act insane. It is good if she had a Sunrise Dance herself, she then knows about the ways and meanings of the dance. This also makes her strong, healthy and easy to get along with. It would help if this woman is not a sickly person. It is also good if she has many children, because part of the meaning of the dance is to enable the girl to have children easily.

The process of notifying the woman who will act as the sponsor is done the same way as when asking a medicine man. One person goes to see the woman. The father of the girl or someone appointed to speak on his behalf is sent to ask her. If she accepts, she is given an eagle feather and cattail pollen. Today, a group of people from the girl's family approach the sponsor. Some even beg the sponsor to accept the responsibility. She is given food, $100 and an eagle feather if she accepts.

Once she has accepted, the girl's family and the sponsor's family have a relationship that is binding for life. They call each other sitike ("my very close friend"). They are expected to aid each other for whatever reason and whenever the need may arise. This is still true today.

Just like the girl's parents, the sponsor prepares for the Sunrise Dance by relying on the support of her clan. The Sponsor's major task is to prepare enough food to give the girl and her relatives a large feast on the day before the dance.

A long time ago, preparing for any kind of a ceremony was very important. If someone was not careful preparing the ceremony, it was considered disrespectful. Everything should be ready and prepared well ahead of time. there should not be any last minute work while the ceremony is being performed. There should be enough food and tulpai for everyone and the place should be clean and festive.

Setting up the camp used to be the responsibility of the girl's family. A wickiup is built for the girl and her family, and a large shaded area where the food is prepared is also set up. Smaller shelters are built for storing groceries and clothing. All these shelters are built in two separate groups facing each other; one group is for the sponsor and one is for the girl's family. The sponsor is not expected to arrive at the site until the shaded area and food shelters are completed.

Today the shaded area and food shelters are made by each group individually; camp sites are farther apart, and each camp is responsible for its own camp needs.

The day before the dance two very important events take place: 1) A food exchange, between the girl's family and the sponsor's family takes place sometimes within the week before the dance. During the food exchange large quantities of food and groceries are exchanged between the families. 2) A sweatbath, attended by male relatives of the girl's family and her sponsor. At this time the medicine man makes some of the personal belongings for the girl's dance. For example, a cane is made. The personal belongings that are made are very important to the girl. The most important quality given to the girl during her Sunrise Dance is longevity. This is symbolized by a decorated cane which she dances with throughout the ceremony. Furthermore, she may use the cane as a walking stick in the years ahead.

A male relative chooses a straight branch from a mulberry bush, strips off the bark and creates a crook by bending over one end and tying it with a rawhide thong. The cane is painted by the medicine man with a mixture of yellow ochre and water. When the paint is dry, the medicine man ties two eagle feathers to the rawhide thong. To the base of one feather a turquoise bead is attached; to the other, two smaller feathers come attached. These smaller feathers are from the yellow oriole.

The eagle feathers symbolize protection against power-caused illnesses. The oriole feathers are symbolic of a good disposition. We believe the oriole gets along best with members of its own kind. This quality is highly valued in humans.

The Apaches believe this bird never said anything negative, that it tried to be happy at all times, mind its own business, and stayed out of fights. The feathers on the stick encourage the girl to follow the ways of the oriole. As the medicine man stated, "We should all be that way."

Two other personal belongings are the drinking tube (straw) and the scratching stick. The straw is made from a cattail plant; it is about two inches long and is painted yellow like the cane. The scratching stick is a little longer and is also yellow. It is pointed at one end and may be carved on the other.

Both items are attached to a strip of rawhide, which the girl wears around her neck during the dance. Throughout the dance, and for four days, the girl must drink only through the tube and scratch herself only with the stick. Should she drink from a container, it is believed, she will develop facial hair. If she touches herself with her fingers, ugly sores would appear and disfigure her face. So the drinking tube and scratching stick are symbolic of physical beauty.

Several other personal belongings may still be seen at present day Sunrise Dances. The first is an abalone shell which identifies the girl as "White Shell Woman" or "Changing Woman." Her power may be invoked during the dance. Second, an eagle feather of white or gray is tied to the girl's hair so that it hangs down behind her. Like the cane, the eagle feather symbolizes longevity. The third item is a fringed and beaded buckskin which is worn by the girl and is covered with yellow ochre by the medicine man. To each of its shoulders he attaches a small downy eagle feather so the girl may walk and run as lightly as feathers float on air. The fourth and last item is a large tanned buckskin, which is provided for the girl to dance upon. This buckskin symbolizes that the girl will always have meat and shelter.

FOOD AND GIFT EXCHANGE

The day after the Sunrise Dance, the girl's family exchanges food and gifts with the sponsor and her family. The exchange symbolizes the members of both families having an everlasting relationship. The exchanging of food is also a way of saying, "All that I have may be considered yours."

THE DANCE

The girl's Sunrise Dance is the only major ceremony we have that is not performed at night. Shortly before sunrise a large tarp is spread on the ground near the center of the dance ground and eight to twelve blankets are piled on top. The buckskin is then placed on the very top with the head pointing toward the east. Six to eight cardboard cartons filled with candy, chewing gum and fruit are arranged in two rows directly in front of the buckskin. Finally, two small baskets (one containing cigarettes, the other cattail pollen and four drums) are set in an arc to the west.

The medicine man and his singers stand to the west side (the left) of the buckskin and the blankets. The girl and her partner take their place in front of the medicine man and his singers, facing the east, with the partner on the north side of the girl. The girl's relatives dance on the south side facing the north, and the sponsor's family dances on the north side facing south.

The main objective of the Sunrise Dance is to transform the girl into "Changing Woman." As the medicine man sings , the power of "Changing Woman" enters the girl's body and stays there for four days. It is said that during this time the girl acquires all the desirable qualities of "Changing

Woman." This means that she is now prepared for a useful and rewarding life as an adult.

"Changing Woman" is never crippled by old age. The legend of "Changing Woman" is as follows: "Changing Woman" never gets old; when she gets to a certain age, she goes walking toward the east. After a while she sees herself in the distance: she is walking to meet herself. They both come together, at which time there is only one, the younger one. Then she is like a young girl all over again. The power of "Changing Woman" gives the girl longevity and the physical capabilities of someone who is forever youthful.

PHASES

The Sunrise Dance is composed of eight parts or phases. Each phase has a name which starts and ends with a particular group of songs. This is followed by a lengthy pause, sometimes as long as twenty minutes. During this pause the girl is allowed to rest while two speakers, one from the girl's family and one from the sponsor's family, are chosen to give talks to the people gathered.

Phase one - She dances with a partner, preferably with a relative/friend who had a Sunrise Dance recently. During this phase the girl dances on the buckskin. Her face is to be expressionless and her eyes cast down. She bounces on one foot, and then the other, to the beat of the drum. The songs during this phase deal with Apache creation and tell about the important contribution made by "Changing Woman." It is believed that by the end of Phase one, "Changing Woman's" power has entered the girl's body. She is told to pray to herself: "Long life, no trouble, Changing Woman.'"

Phase two - Kneeling. Before the kneeling phase begins, the girl's sponsor finally makes her appearance. She walks to the buckskin and replaces the girl's partner. For the rest of the dance the sponsor will give the girl instructions and moral support. She informs the girl not to be scared or shy.

Phase two re-creates how "Changing Woman" was impregnated by the sun. Before Phase two begins, the girl puts her cane aside and kneels down on the buckskin. As the songs begin, the girl raises her hands to shoulder level and looks directly into the sun, swaying from side to side. Legend has it that "Changing Woman" was kneeling when the sun rays impregnated her; thus, the son, "Slayer of Monsters," was born. The kneeling and the fact that the girl has experienced her first menstrual cycle symbolize that she is having the same experience of "Changing Woman."

Phase three - Laying. The medicine man tells the sponsor to lay the girl on her stomach on the blanket with her arms at her sides and her legs together. During this phase, the girl stays in this position while her sponsor massages the muscles in her legs, back, arms, and shoulders. This is done because we believe "Changing Woman's" power causes the girl's body to become soft and manageable like clay that can be molded. Like clay, she can be put into different shapes. The sponsor puts her into the right shape and "Changing Woman's" power in the girl makes her grow that way. If the sponsor rubs her the right way, she will grow up strong and will never get tired.

Her legs are rubbed so she will not have any trouble walking long distances. Her back is rubbed to enable her to bend over and then straighten up when she is old. Her shoulders are rubbed so she can carry heavy things such as wood, water, groceries, and children, without getting tired. Her back and legs are rubbed so she can always work hard for a long time and never get tired.

Phase four - The cane is set out and she runs around it. The girl's cane is taken from her and placed in the ground standing straight up about fifteen yards east of the buckskin. When the songs begin she runs to the cane, circles it once, and runs back again. She is closely followed by her sponsor, who after going around the cane, returns the cane to the girl and they both dance in place for the remainder of the song. Running around the cane is done three more times, a total of four times. At the beginning of each song the cane is placed farther out which causes the girl to run a longer distance. Families of the girl and the sponsor also run after the girl to support her.

Each of these four runs symbolizes a stage of life through which the girl has passed or hopes to pass in the future. The first run, the shortest, symbolizes her infancy years. The second represents childhood and adolescence. The third run symbolizes adulthood, and the fourth, the longest, represents old age. We believe that as soon as the girl circles the cane she, "owns" the stage of that life for which it stands. When completing the final run, the girl has symbolically passed through all the stages of life and is assured of living until she is very old. A woman who had a Sunrise Dance stated, "the final run is the most important part.. It is during this time that she prays for a long life.

Phase five - Running. Phase five does not differ greatly from phase four. It symbolizes the same thing, passing through all the stages of life, thus being assured of living until she is old. The cane is set out to the east, and again, the girl and her sponsor run to circle it; the cane is then placed to the south, then to the west and finally to the north. In phase three, the girl's body is strengthened, but in phase five , we believe, this running will enable her to run fast without getting tired.

Phase six - The candy is poured. At the start of phase six, the medicine man blesses the girl by sprinkling a small amount of cattail pollen over the girl's head, shoulders, and on the crook of her cane. He then picks up a small basket filled with candy, corn kernels, and (usually) some coins. Standing on the buckskin directly in front of the girl he pours the basket over her head. After this process everything becomes holy. It is believed that all the baskets (boxes) near the buckskin also become holy. Because it is holy, it is wanted by everyone.

We believe that if one gets a piece of candy, one will have plenty of food all the time. If one take one of the corns and then goes home and plants it, ones crops will be plentiful. If one gets the money, that means one will always have money and never be poor. The girl's power makes all these items holy and valuable to one.

Male relatives of the girl are chosen to carry the cartons containing candy and fruit through the crowd, encouraging everyone to reach in and take as much as they can, unfortunately today some people simply run in without thinking about the safety of their friends and relatives. Everyone jumps in and fights to get to the candy, pop, etc. Some even run off with the boxes and refuse to share. The girl must be pulled off to the side to protect her from being hurt. This action is not in keeping with the value of respect for others.

Phase seven - Blessing her. The girl and her sponsor dance in place while all the adults voluntarily line up before the buckskin and repeat for themselves the blessing that the girl received. We believe anyone who blesses the girl may at the same time request the power of "Changing Woman" to give them a personal wish.

Phase eight - Throwing the blankets. The girl steps off the buckskin picks it up with both hands, shakes it, and then throws it toward the east. She then throws the blanket in each of the three other directions. We believe the blankets are thrown so she can always have blankets when she gets old. She shakes them like they are dusty, this is so she will always have clean blankets, a clean camp, and a home. The buckskin is thrown so there will always be plenty of deer meat in her camp/home and good hunting for everyone.

This marks the end of the Sunrise Dance. The girl and her sponsor leave right away. The crowd goes their way and the medicine man and his drummers rest in a shady spot and get something to drink. For four days after the dance the girl is considered holy. "Changing Woman's" power continues to reside in the girl, and acting through her may be used to cure illness or bring rain. A medicine man said this is the only time she is just like a medicine man. She can make you well if you are sick, she can do this without the songs.

In the past, the whole Sunrise Dance took only one day; today it lasts for three days. All Apaches perform their dances slightly differently, but it is still beautiful with all the same meanings and symbolisms. The meaning of the dance is to bring the girl physical strength, temperament, prosperity, and a healthy old age.

A Sunrise Dance should not be given to show off wealth. It is done for the girl not for the wealth. This is always explained to young girls. They know why they are dancing. It has a lot of meaning to them. The girl has her own interpretation of the dance: it is her own unique experience.

An old man from Cibecue stated, "You never brag about how successful your dance was, the dance will speak for itself." He continues, "If the people there felt the spirit they will let it be known." I, personally believe this philosophy.

CONCLUSION

There is a growing interest in the history of Native Americans. It is good to learn about our history: how and why we came to be. History has alluded to many of the problems we face today. The Federal Policy of placing us on reservation affected us. Each encounter we had with the European culture meant death for us. They invaded our territory with the intent of destroying us. They realized they could not get rid of us so they decided to make us civilized, productive people. They decided to place us on reservations where they did not have to be in contact with us and they could ignore our existence. To look back on our history and see how harsh we were treated, hurts.

To civilize us meant education. They took our parents and grandparents away from their families, culture, and their way of life. They insitutionalized children in boarding schools and missions or sent them off to other places. What happened there is also emotionally harmful. They were punished for being Apaches. Their language was taken away and they were told that their practices were done to worship the devil. If they stood up for what they believed, they were told they were dumb or stupid for believing in their culture. They were made weak by degrading their self-esteem, and their values. This is when they began to doubt themselves. This is just what the Europeans wanted. Most of this was done in God's name. Who did they think they were kidding, certainly not us. We have always believed in God. We thanked the Creator for our children, life, prosperity, and the growth of our people. Before we started on a long and difficult journey, we asked the Creator to guide and protect us. We also prayed that the planting of our crops would grow well with a bountiful harvest. We asked the Creator to bestow good health on everyone who helped with the harvest, and that they would have plenty of food for their families. We prayed for newly constructed wickiups. The Europeans did not need to bring God to us: he has always been with us.

Our parents and grandparents reached adulthood and had families of their own. How are they to raise a family when the majority of them were in boarding schools and missions, off and on the reservations. Who taught them love, care, understanding, discipline, patience etc. We all know that in the name of God we were punished like no other people. At these boarding schools and missions our parents and grandparents were physically, emotionally, spiritually, and sexually abused. Our parents and grandparents survived the cycle of abuse which continues to this day; now it is up to us to educate and support the generations to come. In this twenty-first century we are left to share this dsyfunction.

We are not bad; there is nothing wrong with us. We must help ourselves and our children's children to understand that we, as Apaches, have the strength to survive. We are not here today to blame the white people, our parents, or grandparents for the abuses that have occurred. We are here to heal and to get things out in the open. It is okay to feel pain, to be angry, or to feel the shame that our people have endured. It is time to let these feelings go and let the healing begin. It s time to make changes. However, the best part is, the choices are ours to make! We can make effective choices or we can choose to continue to be destructive to ourselves. In the name of progress we have suffered much because of our language, culture, and our families. That is why we are having this workshop: to continue the culture. This is the beginning of the process.

QUESTIONS

1. Where did the Apache people come from?
2. What were the traditional male and female roles a long time ago?
3. How did Apaches feel about children?
4. How many clans are there?
5. Name some of our values?
6. What were the clan's main functions?
7. Name some of the symbolism of the Sunrise Dance and their meanings.
8. What were some of the ways of showing respect for each other?
9. Name some of our natural resources.
10. What are some of the ways that reservation life has changed us?

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Medical
Psycho/Social

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UNIT II

Medical and Psychosocial Issues in CPS

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TABLE OF CONTENTS

Course Outline 43

Training Outline 45

I. Background 47

II. World of Abnormal Rearing Cycle 50

III. Precursors to Abuse 51

IV. Criteria for Making a Diagnosis of Child Abuse 52

V. Spin Off Problems of Child Abuse 52

VI. Questions for Medical Unit 55

VII. Reference Articles 57

VIII. Glossary of Terms 96

CHILD PROTECTIVE SERVICES
COURSE OUTLINE

UNIT II: **Medical and Psycho-social issues in CPS:**
Health care of child maltreatment

COURSE LENGTH: 6 hours

COURSE DESCRIPTION:

This unit will present the physiological and psychological assessment tools most frequently used in assessing children. It will describe medical examinations and finding of sexual abuse of children. A discussion of the factors that predispose children to maltreatment will be covered. The behavioral manifestations that children who are maltreated exhibit will be discussed and examples given to participants.

COURSE OBJECTIVES:

1. Participants will identify medical, physiological and psychological assessment tools most frequently used in assessing families and children.
2. Participants will identify, differentiate and describe the forms of accidental and non-accidental physical injury and how they are manifested by child abuse victims, e.g. head injuries, fractures, sprains, lacerations and burns.
3. Participants will be able to describe the physical manifestations of forms of sexual maltreatment.
4. Participants will be able to identify the elements that are required in the documentation of child sexual abuse as required by the law.
5. Participants will be able to identify and describe circumstances that predispose children to maltreatment.
6. Participants will be able to identify behavioral indicators and emotional characteristics of maltreatment.

KEY CONCEPTS:

child maltreatment, psycho-social, child sexual abuse, emotional maltreatment, behavior indicators, suspected child abuse and neglect (SCAN), neglect assessment tool, head injury, fractures, sprains, lacerations, burns, risk factors

POSSIBLE DISCUSSION TOPICS:

1. Using handouts and overhead projection materials, participants will discuss the physiological and psychological assessment tools most frequently used in assessing children.
2. Participants will discuss a case to evaluate the use of aforementioned assessment tools. This will be done through sharing a case example and participants being placed in small groups to generate discussion.
3. Through small group discussion, participants will identify the elements in the case example that require documentation of child sexual abuse.
4. Using small group discussion, participants will identify the circumstances that predispose the child to maltreatment as stated in the case example.
5. Using a case example and small group method, participants will identify and describe the physical manifestations of child sexual abuse.
6. Using the case example and small group discussion method, participants will discuss the behavioral and emotional characteristics inherent in the maltreatment of the child.

MATERIALS:

"Up I Grow" for parents: How a child develops from birth to five years
Denver Developmental Screening Test
Normal developmental tables
Child behavior signs - physical/emotional abuse
Body drawings of males and females
Anatomically correct dolls
Case scenario
Glossary of defining key medical concepts
Overhead projection transparencies

Child Abuse and Neglect / Trainers Outline

I. Distinguishing Accidental vs. Non-Accidental Injuries:
  A. Non-accidental injuries are characterized by:
    1] A distinctive mark e.g. linear bruises, "loop" marks.
    2] The bruises cover large areas of the body or more than one body plane.
    3] The bruises are of different ages.
  B. Accidental bruises tend to be on hard bony prominences e.g. knees, elbows, foreheads.

II. Conditions often mistaken for physical abuse:
  A. Mongolian spots
  B. Certain kinds of dermatitis - the example used in phytophoto dermatitis.
  C. Blood diseases e.g. Leukemia: clotting factor deficiencies.
  D. Traditional medical treatments e.g. "cupping", oriental coin rubbing.

III. Fractures characteristic of physical abuse:
  A. Spiral fractures under 12 months of age.
  B. Metaphyseal chip fractures.
  C. Periosteal elevation.
  D. Rib fractures.

IV. Failure to thrive caused by:
  A. Diseases
  B. Poverty
  C. Inadequate knowledge about formula preparation.
  D. Attitudinal: caloric deprivation

V. Whiplash Shake Injury:

Shaking child by holding the shoulders causing the head to move rapidly back and forth, leads to bleeding in the head (subdural hematoma) and eye (retinal hemorrhage).

VI. Evaluation of Sexual Abuse:
  A. Interview of the child.
    1] Use of diagrams and dolls.
    2] With or without parents.
    3] Using child's own language.

B. Collection of specimens.
  1] Use of "rape kit".
  2] Collection of cultures and forensic evidence.

C. Use of the Colposcope.

Child Abuse and Neglect

The incidence of abuse may appear to have increased in recent years with such statistical statements made by Kessler (1991, p.2) "Reports of child abuse and neglect continue to increase every year. In 1986, over 1.5 million children nation wide were reported as abused and neglected, a 74% increase since 1980. Reports of sexual abuse have more than tripled since 1980." Reporting abuse and neglect has become a social responsibility, therefore increasing the number of reports made each year.

Risk factors, from studies done on child abuse and neglect, have been identified that can predispose a family to child abuse. A diagnosis of child abuse cannot be made based on risk factors but these risk factors can be documented as a part of the child's history. The predisposition of a child to abuse can be correlated with the psycho dynamics of the family.Factors related to child abuse are parent or care giver is predisposed to abusive behavior, mis-perception of the child as being "difficult" or "special", lack of social supports and the presence of a perceived crises. These factors can all be identified in the three C's in the criteria for making a diagnosis of child abuse when correlated with non-accidental injuries.

The identification of abuse by a physician is made based on a thorough history, complete physical exam,and laboratory tests. A thorough history can provide the most important source of information. Parts of the history taking that is kept in mind during the interview is the source, the presence of an inadequate explanation, reason for delay in treatment, and discrepancies or contradictions.

Distinguishing accidental from non-accidental injuries can be done by the location, size, shape and pattern of the injury. Non-accidental injuries are characterized by a distinctive "telltale" mark left by the object used such as linear bruises from a ruler or stick, "loop" marks from a cord or rope. Physical injuries most likely to occur from abuse include bruises, fractured bones, and burns; bruises being the most common found. Non-accidental bruises cover large areas of the body or more than one body plane. Typical sites are buttocks, lower back and/or thighs, genitals and inner thighs, neck, cheeks, earlobes, upper lip and frenulum from forced feeding, grab marks on the arms,and around the trunk. If the abuse is taking place over a period of time then the bruises are of different ages. The age of the bruises are distinguished by the color. Bruises less than 24 hours are red to red-blue,1-4 days old are purple to dark blue, 5-7 days old are green to yellow-green, and 7-10 days old are yellow to brown. Accidental bruises tend to be on hard bony prominences e.g. knees, elbows, foreheads and the explanation is appropriate for the child's developmental stage and functioning level.

Conditions often mistaken for physical abuse are mongolian spots, certain kinds of dermatitis, blood diseases and traditional medical treatments. Mongolian spots are blue-gray spots with delineated boundaries usually found on the buttock and lower back but can be found anywhere in a variety of sizes. Mongolian spots are characteristic of dark skinned races and is usually found on children less than 3 years of age and rarely in adults. Phytophoto dermatitis is an example of a kind of dermatitis commonly mistaken for physical abuse because is resembles a caustic burn. Blood diseases such as leukemia, a disease involving the clotting factor deficiencies, easily causes severe bruising from minor injuries. Traditional medical treatments e.g."cupping", oriental coin rubbing also leave bruises. "Cupping" is the application of a heated cup to the chest which causes circular burns with contusions. In coin rubbing a coin is used with hot oil, which may also leave a burn if done vigorously, to massage a person as a way of treating specific symptoms. Coin rubbing leaves bilateral linear bruises on the chest and upper back. The parents or care givers usually report the use of such treatments.

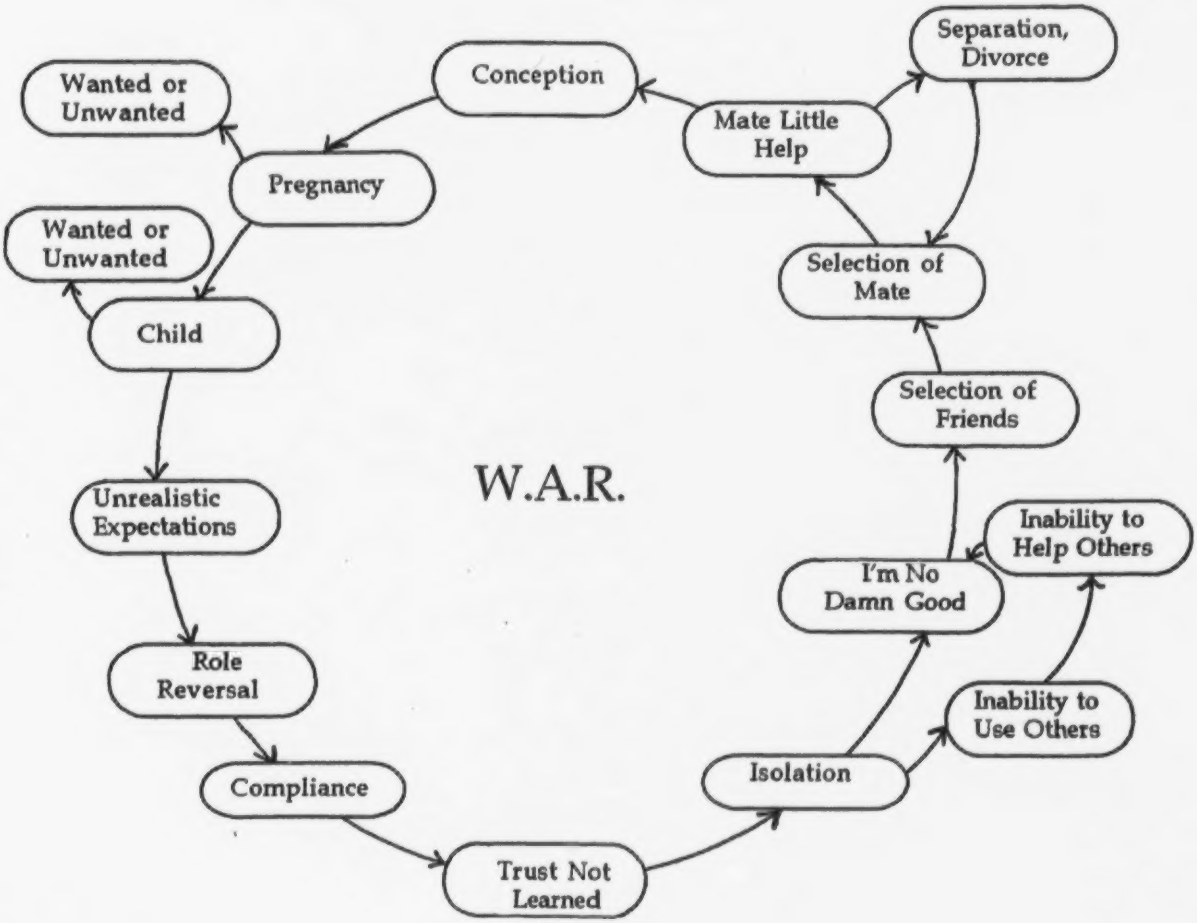
Fractures characteristic of physical abuse are spiral fractures under 12 months of age, metaphyseal chip fractures, periosteal elevation, and rib fractures. The forces needed to cause these fractures can not be produced by an accidental fall. Spiral fractures denotes twisting of an extremity. Metaphyseal chip fractures can be caused by a child being pulled and jerked. Periosteal elevation is the result of bleeding between the periosteum and bone shaft from detachment. Unexplained rib fractures indicates abuse. Fractures are a result of severe compression and/or direct trauma. The injury may involve several ribs and the underlying organs.

Failure to thrive is defined as a child who fails to grow and has no medical reason to explain higher failure to grow. Failure to thrive caused by poverty,inadequate knowledge about formula preparation, and attitudinal are non-organic. Organic failure to thrive is related to a disease not neglect. Failure to thrive caused by poverty is rare due to the availability of social service to families, especially families with young children. Non-organic failure to thrive is caused by a child not being fed adequately, either from an inadequate parent or the intentional with holding of food. The inadequate parent has no knowledge and does not seek knowledge for preparation of formula for their child. Attitudinal is the intentional deprivation of food related to punishment.

Whiplash shake injury is the shaking of a child by holding the shoulders causing the head to move rapidly back and forth which leads to bleeding in the head(subdural hematoma) and eye (retinal hemorrhage).

Evaluation of Sexual Abuse is done by interviewing the child, collecting specimens and the use of a colposcope. Interview of the child is done by using diagrams and dolls to help the child tell their account of the incident, especially useful with children who have a limited vocabulary or are fearful of verbalizing the incident. The presence of the parents may or may not hinder the child in relating their account. A fearful child may need to have an individual of their choosing accompany them during the interview. If the child is non-english speaking the interview should be done in the child's own language if possible. Collection of specimens utilizes a "rape kit" that has specifications for collection of cultures and forensic evidence. The colposcope is an instrument with lenses used to visually exam the vagina. It is essential in documenting the appearance and photographing the injuries if needed.

WORLD OF ABNORMAL REARING CYCLE


Conception
Wanted or Unwanted
Pregnancy
Wanted or Unwanted
Child
Unrealistic Expectations
Role Reversal
Compliance
Trust Not Learned
Isolation
Inability to Use Others
Inability to Help Others
I'm No Damn Good
Selection of Friends
Selection of Mate
Mate Little Help
Separation, Divorce
W.A.R.

CHILDHOOD MISSED

Precursors to Abuse When the Parent (Custodian)

1] Shows evidence of loss of control, or fear of losing control.
2] Presents a contradictory history.
3] Projects cause of injury onto a sibling or third party.
4] Has delayed in bringing child in for care.
5] Shows detachment.
6] Reveals inappropriate awareness of seriousness of situation (either overreaction or under reaction).
7] Continues to complain about irrelevant problems unrelated to injury.
8] Personally is misusing drugs or alcohol.
9] Is disliked, for unknown reasons, by the interviewer.
10] Presents a history that cannot or does not explain the injury.
11] Gives specific "eye witness" history of abuse.
12] Gives a history of repeated injury.
13] Has no one to "bail" her (him) out when "up tight" with the child.
14] Is reluctant to give information.
15] Refuses to consent for further diagnostic studies.
16] Hospital shops.
17] Cannot be located.
18] Is psychotic or psychopathic.
19] Has been reared in a "parentless" atmosphere.
20] Has unrealistic expectations of the child.

Criteria for Making a Diagnosis of Child Abuse

Definition: Non-accidental injury i.e. injury not explained by available history.

The Three "C's

1] Presence of potential for abuse within the family (the custodian)
    a) Lack of parenting imprint in one or both of the parents.
    b) Parent(s) isolated from others - no or few trusting relationships.
    c) Little if any "bailing out" by spouse or when one is "up tight" with a child.
    d) Poor self image by one or both parents.
    e) High, unrealistic expectations of the child.

2] Presence of a special child: i.e. the child is seen as (or really is) different.

3] Presence of crisis or series of crises.

Spin Off Problems

1] Failure to thrive
2] Retardation
3] Brain damage
4] Learning disorders
5] Battered child
6] Behavior disorders
7] Habit disorders
8] Drug abuse
9] Obesity
10] Neglect
11] Teenage pregnancy
12] Assinations, etc.

When the Child

1] Has unexplained injury.
2] Shows evidence of dehydration and/or malnutrition without obvious cause.
3] Has been given inappropriate food, drink and/or drugs.
4] Shows evidence of overall poor care.
5] Is unusually fearful.
6] Shows evidence of repeated injury.
7] "Takes over" and begins to care for parents needs.
8] Is seen as "different" or "bad" by the parent.
9] Is indeed different in physical or emotional makeup.
10] Is dressed inappropriately for degree or type of injury.
11] Shows evidence of sexual abuse.
12] Shows evidence of repeated skin injury.
13] Shows evidence of repeated fractures.
14] Shows evidence of "characteristic" x-ray changes to long bones.
15] Has injuries that are not mentioned in the history.

Non-organic Failure to Thrive

Definition: A child who fails to grow and has no medical reason to explain failure to grow.

Common Causes: Child is not fed adequately.

Risk Factors: Parental conflict, Mother had aberrant nurturing complicated pregnancy problems, medical problems.

Reason for Inadequate feedings:

- Parental Neglect
- Substance Abuse
- Depression
- Psychosis
- Mental Retardation
- Feeding Errors
- Poverty (Rare)

Diagnosis: Feed Child...Gains Weight (Infant)
Foster Child..Gains Weight (Children)

Management:

- Intensive in home supervision
- Foster care while parent is being treated/trained.

Prognosis:

- Smaller child
- Lower verbal IQ scores
- Lower social maturity
- Higher incidence of behavioral disturbances.

- Death under suspicious circumstances.

Questions for Medical Unit

1. Which of the following injuries represent the single most common medical finding in the cases of child abuse?

   a) Bruises
   b) Burns
   c) Broken bones
   d) Internal head injuries
   e) Genital injuries

2. Subdural hematomas (blood clots) which are not accompanied by skull fractures are now believed to be the result of:

   a) Genetic bleeding disorder
   b) Whiplash shaking of the child
   c) Infections which have spread to the brain
   d) None of the above (subdural hematomas are always accompanied by skull fractures)

3. A genetic trait commonly found in children of darker skinned races which is frequently mistaken for bruises, usually on the buttocks and the back, is:

   a) Mongolian spots
   b) Stork bites
   c) Thrombocytopenia
   d) None of the above

4. The cases of spiral fractures in _________ is usually non-accidental.

   a) Adolescents
   b) School-aged children
   c) Toddlers
   d) Infants

5. Non-accidental bruises are most often found in the following areas of the body: (circle all that apply)

   a) Buttocks and lower back
   b) Genitals and inner thighs
   c) Cheeks
   d) Shins
   e) Ear lobes
   f) Upper lip and frenulum
   g) Neck

6. A medical exam is an absolute way to determine whether or not sexual abuse has occurred.

   a) True
   b) False

7. Which of the following conditions are highly suggestive of non-accidental trauma in children? (circle all that apply)

   a) Bruising on two or more body planes.
   b) A bruise on two-year-old's forehead.
   c) Linear bruises on the body.
   d) Bruising at different stages of healing.
   e) The nature and extent of the injury is not consistent with the explanation provided by the parent/caretaker.
   f) A delay in taking the child for needed medical treatment following the injury.

8. Failure-to-thrive may be caused by disease or other organic problems. It is not always the result of neglect.

   a) True
   b) False

9. If a child has a red linear bruise and a yellow linear bruise on his buttock it is suspected that:

   a) The bruises were caused by different objects.
   b) The bruises were caused at different times, several days apart, as the yellow bruise is older than the red bruise.
   c) One injury was caused on the child's bare skin and the other injury was caused through the child's street clothes.
   d) None of the above.

10. In a medical exam for sexual abuse, there is no need to test for venereal diseases unless the child says that intercourse has taken place.

   a) True
   b) False

Reference Articles for Medical Unit

EVIDENCE WORKSHEET FOR IMMERSION BURNS

AS[illegible]O: ____________ SUSPECT'S NAME: ____________

RESENT DATE: ____________ VICTIM'S NAME: ____________

OCATION: ____________

ATHTUB MEASUREMENTS:

Width: ____________ Inches
Top Length: ____________ Inches
Bottom Length: ____________ Inches
Inside Depth: ____________ Inches
Construction: ____________ (porcelain, fiberglass, etc.)

UNNING WATER TEMPERATURE - HOT:

Seconds	Degrees	
0		
5		
10		
20		
		Peak Temp.

RUNNING WATER TEMPERATURE - COLD:

Seconds	Degrees

RUNNING WATER TEMPERATURE (FULL HOT AND COLD):

Seconds	Degrees	
		Peak Temp.

ULL HOT WATER STANDING 5 INCHES DEEP (TEMPERATURE MEASURED IN MIDDLE OF TUB T MID-DEPTH):

	Fill Time	
Inches	Minutes	Seconds
1		
2		
3		
4		
5		

Minutes	Degrees
0	

USPECT RAN A TUB OF WATER ON MY REQUEST. RESULTS: DEPTH 5 INCHES - MINUTE AFTER WATER OFF - TEMPERATURE ____________ DEGREES. MEASUREMENT WAS ID-TUB/MID/DEPTH.

NVESTIGATOR #1: ____________ I.D.# ________ DIVISION: ____________

NV[illegible]IGATOR #2: ____________ I.D.# ________ DIVISION: ____________

RELATIONSHIP BETWEEN COLOR AND AGE OF CONTUSIONS

Source	Color	Age
Adelson	Reddish blue or purple	Initially
	Bluish-brown	1-3 days
	Yellow-green	At least several days
	Complete resolution	Can require 1-3 weeks
Glaister & Rentoul	Violet	Initially
	Dark blue	About 3rd day
	Greensih	5th-7th day
	Yellowish	8th-10th day
	Normal tint	13th-18th day
Camps	Red	Immediately
	Dusky purple or black	Turning fairly soon to
	Green	5th-6th day
	Yellow	7th-10th day
	Disappearing	14th-15th day
Polson & Gee	Red, dark red, or black	Not more than 1 day
	Greenish tinge	End of 1 week
	Yellowing	End of 2 week
	Resolved completely	End of 4 week
Spitz & Fisher	Light bluish-red	After a few hours
	Dark purple	Within 1 week
	Greenish-yellow	End of 1 week
	Brown	Later than 1 week
	Disappearance	2-4 weeks

GLOSSARY OF TERMS

Glossary of Terms

abandonment	This means any parent of any child under the age of ten years, and every person to whom such child or children have been entrusted for the nurturance or education, who deserts such child or children...with the intent wholly to abandon such child or children
assess	To determine the importance of. behavior indicators A recurrent way of acting by an individual or group toward a given object or in a given situation
brainstorming	A group problem-solving technique that involves the spontaneous contribution of ideas from all members of the group
burns	Injury or damage resulting from exposure to fire, heat, caustics, electricity, or certain radiation
case	A situation requiring investigation or action
child maltreatment	Includes child physical and emotional abuse and neglect
child sexual abuse	Coercive or nonconsenting sexual acts involving a child or children
client	A person served by or utilizing the services of a social agency
closure	The condition of being closed as in finishing work with a client
community	A unified body of individuals with common interests living in a particular area
coordination	The act or action of being coordinated. To be or become coordinate so as to act together in a smooth concerted way
data	Factual information used as a basis for reasoning, discussion, or calculation

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documentation	Recording of information. Use of documenting evidence. A furnishing with documents as to substantiate a claim or the data in a book or article
dynamics	The pattern of change or growth of an object or phenomenon such as a relationship
empowerment	To give official authority or legal power to
evaluation	A determination is made and recorded regarding the extent to which the established goals have been met
family	A group of individuals living under one roof
fractures	The breaking of hard tissue as in bone. A traumatic injury to a bone in which the continuity of the tissue of the bone is broken
GANTT chart	A management organizational tool used to give specifics, such as the who, what, where, when, and how, of a task or project
head injury	Any traumatic damage to the head resulting from penetration of the skull or too rapid inertial acceleration or deceleration of the brain within the skull
implementation	A deliberate action performed to achieve a goal
jurisdiction	The power of a court to hear particular types of cases
lacerations	A torn and ragged wound
leadership	The office or position of a leader. The ability to influence others to the attainment of goals
linkages	The manner or style of being united
memorandum	A communication that contains directive, advisory, or informative matter
monitoring	To keep track of, regulate, or control the operation of

objectives	Something toward which effort is directed
organizational chart	A diagrammatic representation showing how departments or divisions in an organization are related to one another along lines of authority
outcome	Something that follows as a result or consequence
primary prevention	A program of activities directed toward improvement of the general well-being while also involving specific protection
protective custody	In child abuse and neglect cases, refers to the emergency removal of a child from the custody of the parents or caretaker. Protective custody is allowed only when a child is in imminent danger is he/she remains in the custody of the parents or caretaker. Abused or neglected children placed in protective custody are usually taken to hospitals, shelter homes, foster homes, or juvenile halls pending the Juvenile Court hearings on the abuse or neglect petition
protocol	A code prescribing strict adherence to correct etiquette and precedence
psychosocial	Relating social conditions to mental health
reporting	To give a formal or official account or statement of. secondary prevention A level of prevention that focuses on early diagnosis, use of referral services, and rapid initiation of treatment to stop the progress of a maladaptive situation
self-esteem	A confidence and satisfaction in oneself
self-identity	Individuality
social planning	A plan of action that would stimulate a comprehensive approach to problem solving, include broad representation from the community in that process, build effective cooperative linkages among social agencies and hold participating agencies accountable for their actions through rigorous evaluation research

sovereignty	An autonomous state
sprains	A sudden or violent twist or wrench of a joint with stretching or tearing of a ligament
subdural hematoma	A massive blood clot beneath the dura mater that causes neurologic symptoms by pressure on the brain
tasks	Assigned piece of work often to be finished within a certain time
termination of	Any action resulting in the parental rights termination of the parent/child relationship. essentially, this involves dissolving or doing away with all legal connections, rights and responsibilities between the parent and child
tertiary prevention	A level of prevention that deals with the rehabilitation and return of a client to a status of normalcy with a minimum risk of recurrence
values	Principles or qualities intrinsically valuable or desirable.

WHITE MOUNTAIN APACHE PROJECT
UNIT II PSYCHO-SOCIAL ISSUES IN CPS

TABLE OF CONTENTS

COURSE OUTLINE 102

TRAINER'S OUTLINE 102

I. COYOTE STORY 104

II. THE PROBLEM OF CHILD ABUSE: WHAT WE KNOW 107
  EMOTIONAL ABUSE 109
  NEGLECT 111
  SHAKEN INFANT SYNDROME 112
  PHYSICAL ABUSE 114
  SEXUAL ABUSE 116

III. FAMILY INDICATORS 119

IV. HOW AND WHY CHILDREN TELL 121

V. SUSPENDING JUDGEMENT 123
  VALUES CLARIFICATION

VI. CIRCUMSTANCES OF INTERVIEWING 125
  INTERVIEWING 127
  CHILD CREDIBILITY FACTORS 137
  RESPONDING TO DISCLOSURE 138
  LISTENING TECHNIQUES 140
  RECANTING 145
  TREATMENT 147

VII. TRIBAL CASE

WHITE MOUNTAIN APACHE PROJECT
UNIT II PSYCH-SOCIAL ISSUES IN CPS

I. Coyote Incest Story and Discussion (20 Min.)

II. The Problem of Child Abuse: What We Know (Flip Chart) (40 Min.)
Pre/Post Test (Overhead)
- A. Emotional Abuse
    - 1. Definition
    - 2. Statistics
    - 3. What to Look For
    - 4. Behavioral Indicators
- B. Neglect
    - 1. Definition
    - 2. Statistics
    - 3. What to Look For
- C. Shaken Infant Syndrome
    - 1. Physical Indicators
    - 2. Hazardous Play Activities
    - 3. Prevention
- D. Physical Abuse
    - 1. Physical Indicators
    - 2. Myths vs. Facts
    - 3. Behavioral Indicators
- E. Sexual Abuse
    - 1. Statistics
    - 2. Physical Indicators
    - 3. Myths vs. Facts
    - 4. Behavioral Indicators

III. Family Indicators (Overhead) (45 Min.)
- A. Parents
- B. Adult Male
- C. Mother

IV. How and Why Children Tell About Sexual Abuse (10 Min.)
- 1. Indirect Hints
- 2. Disguised Disclosures
- 3. Breaking Barriers

V. Suspending Judgement - Values Clarification (30 Min.)
- 1. Group Facilitated; A Story Regarding Incest
- 2. Group members assign responsibility for abuse based on story

VI. Interviewing
  A. Circumstances of the Interview
  B. Interviewing
    1. Reference: Gloria Fohrenkam's CPS process portion of training
    2. The Therapeutic Interview
  C. Child Credibility Factors (Overhead)
  D. Responding to a Disclosure
    1. Statements to use - things to always say (Overhead)
    2. Reducing the Blame - things never to say (Overhead)
  E. Listening
  F. Recanting
  G. Treatment Options

VII. Tribal Case Scenario
  1. Tribal cases presented with discussion on options for interviewing, listening and treatment.
  2. Practice integration of noting behavioral indicators, why children tell, recanting and reducing blame.

THE DOINGS OF COYOTE

Long ago, coyote was told that the people were dying. He tied together a hairbrush, a wooden skin-dresser, and a stone pestle and threw them into the water. "If these float, let them come back to life," he said. They sank, and therefore, the dead did not come back.

Snow fell. It rained down in the form of flour. This same Coyote said, "I chewed ice," and it became ice.

Also the horns of deer were tallow. Coyote again said, "I chew bones."

Coyote became ill. He had a handsome daughter. When he became ill, he told his wife to throw him away. He said their daughter was to be given to a man with a panther-skin quiver on his back who would come to play games. This man, he said, would also have a prairie dog in his hand.

When Coyote died, his wife gave the daughter to the man described by Coyote and he married her. It was Coyote himself, who married his own daughter. He had her hunt his lice. On the back of his head was a large wart. He told her that the lice always stay on this side, indicating a portion of his head remote from the wart. While she was looking for his lice, her husband fell asleep. Wondering why he always spoke as he did, she looked on the back of his head. She picked up a large stone and was about to strike him on the crown of his head when he saw her shadow. He jumped, ran out and trotted off toward the east. Whenever he came where there were camps people reviled him as the man who had his own daughter for his wife. They heard him crying. They referred to him as the scabby one and hit him. He cried in pain and turned from human form into a coyote.

Coyote was driving some mules. He smothered five of the mules. He wondered what smothered them. "Hurry," he said. "Skin their throats. This place will be called Coyote Springs," he said.

When coyotes were people they all drank whiskey and ran about everywhere shouting. When they became coyotes, they barked.

The importance of the Coyote Story indicates the Apache Tribe has long recognized the problem of incest. It also reinforces the importance of telling (the daughter realizes it is her father and tells) and that the Coyote is reviled by other members of the tribe after they find out he has married his own daughter.

The problems of sexual abuse and incest are not new, but we do recognize the symptoms and indicators today? The Coyote Story describes tribal values regarding incest. An understanding of these values is essential for effective intervention and treatment.

PRE AND POST TEST
CHILD ABUSE

DIRECTIONS: Circle "T" if you think the statement is true. Circle "F" if you think the statement or any part of the statement is false.

T F 1. Ninety percent of abuses can be treated effectively.

T F 2. Less than one-third of the estimated child abuse cases reach the attention of a child protective agency.

T F 3. All parents have the potential for child abuse.

T F 4. The average age of an abusive parent is 26.

T F 5. Abusive parents generally love their children deeply.

T F 6. More violence toward children takes place in the family with six or more children.

T F 7. Usually an abusive parent "plays no favorites." Each child in the family is abused.

T F 8. The highest incidence of child abuse is found in middle class society.

T F 9. Abusive parents often need parenting themselves.

T F 10. Ninety percent of abusive parents are married.

T F 11. An abusive parent seldom feels sorrow or guilt for his actions.

T F 12. The most effective way to deal with an abusive parent is to imprison him/her.

T F 13. All fifty states require medical practitioners to report to authorities "suspected" cases of child abuse.

T F 14. In 1975, more than 200,000 children died from intentional abuse by adults.

T F 15. A child who is abused usually grows up to be an abusive parent.

Footnote: Copyright 1980 - Miliken Publishing Co. Child Abuse and Neglect

THE PROBLEMS OF CHILD ABUSE: WHAT WE KNOW

Child abuse involves any injury including but not limited to bruising, bleeding, burns, fractures, injuries to any internal organ, failure to thrive, malnutrition or any physical condition which imperils child's health, welfare or safety. In other words, this means a child is either hurt or ignored to the point that his/her health or life is in danger.

Child abuse takes four major forms:

EMOTIONAL ABUSE - damage to a child's sense of self-worth due to rejection, humiliation or lack of.

PHYSICAL ABUSE - an omission or act which results in physical injury and / or emotional trauma, or which places the child in imminent danger.

NEGLECT - failure to provide for basic physical, medical and/ or emotional needs of the child.

SEXUAL ABUSE - sexual contact with or exploitation of the child, fondling and / or intercourse.

Some children are physically abused. They often have scars, bruises, burns or broken limbs. Some suffer from malnutrition and chronic infections or they are always left in dirty clothes and in dirty surroundings. Signs like these can suggest abuse or neglect. Physical abuse is an injury due to out-of-control or harsh punishment.

Emotional abuse in children may be evidenced by severe anxiety, depression, withdrawal or extremely aggressive behavior.

Some children are sexually abused. They are likely to be loners and to have poor peer relationships and low self-esteem. They tend to be poor school performers and may act-out sexually with others or even animals.

Physical, emotional or sexual abuse, or neglect may be associated with certain child characteristics which tend to appear in combination. Look for:

A child who is disruptive, aggressive, very quiet or withdrawn, chronically late or absent, consistently hungry; a child who shows a marked change in attitude or behavior in school; a special needs child who may be singled out for abuse at home.

A child who is malnutritioned or constantly tired or often complains of pain without apparent injury; a child who lacks medical attention or shows physical injuries inconsistent with the explanation of them.

Child abuse is any mistreatment or neglect of a child that results in harm or injury. Nearly two million children suffer from child abuse each year.* Child abuse hurts children and everyone else, too. Children suffer physical and emotional harm that can last a lifetime. Our society suffers in the cost of ruined lives and broken families.

Child abuse must be reported according to the 1990 federal legislation regarding mandatory reporting. It contains penalties for failure to report. Child sexual abuse occurring on the reservation is a federal crime. Consequently, both tribal and federal criminal justice systems become involved. It is imperative that tribal leaders be involved in addressing the serious problem of child abuse.

About Child Abuse, Channing Bete Co., 1989.

EMOTIONAL ABUSE

Two types of emotional maltreatment are generally recognized; emotional neglect and emotional abuse.

Emotional neglect is the consistent failure of a parent or caretaker to provide a child with appropriate support, attention and affection. Emotional abuse is a chronic pattern of behaviors, such as belittling, humiliating and ridiculing a child. Both types attack a child's emotional development and sense of self-worth. For example, the child who is never hugged, told they are loved or nurtured in any manner is a victim of emotional abuse.

It is estimated that the incidence of emotional abuse approximates that of physical abuse of about 100,000 victims a year. Emotional abuse typically occurs with physical abuse; however, it may occur as the only form of maltreatment or in conjunction with other forms of abuse. From July 1, 1989, through June 30, 1990, Arizona CPS received over 1,646 reports of emotional abuse.

ACTIVITIES THAT COULD EVENTUALLY LEAD TO AN EMOTIONALLY ABUSED CHILD

A parent or caretaker chronically:

- criticizes the child for behavior that is developmentally normal.
- belittles or shames the child
- blames the child for things over which the child has little or no control
- uses the child as a scapegoat when things go wrong.
- takes little or no interest in the child and the child's activities
- treats the child differently from other children in the household
- withholds love and affection
- restricts the child's activities and peer relationships
- engages in bizarre acts of torture or torment, such as locking the child in a closet
- imposes extreme forms of punishment
- is "psychologically unavailable" and deprives the child of essential stimulation and responsiveness
- yells, nags and humiliates

What to look for:

- eating disorders
- sleep disturbances, nightmares
- speech disorders, stuttering
- failure to thrive
- developmental lags or slow physical development
- asthma, severe allergies or ulcers
- frailty

BEHAVIORAL INDICATORS OF EMOTIONAL ABUSE

- Habit disorders such as biting, rocking, head banging, thumb-sucking in an older child
- Poor peer relations
- Behavioral extremes, overly compliant or demanding, withdrawn or aggressive
- Self-destructive behavior, remaining oblivious to hazards and risks
- Chronic academic underachievement
- Low self-esteem
- Problems with feelings
- Problems with relationships

NEGLECT

Neglect is the chronic failure of a parent to provide a child under 18 with adequate food, housing, clothing, medical care, protection, supervision and education. It is when a child is harmed by what a parent does not do.

Remember: Neglect must be evaluated within the context of cultural standards.

Most poor families do not neglect their families. Poverty is not neglect. Families with limited resources can and do provide basic care for their children by using various resources and social services. Neglect is very serious and is abusive. Physical abuse and neglect pose serious health problems for children. Neglect can result in cognitive and neurological deficits in children as well as health problems.

FAILURE TO THRIVE - A possible case of child neglect

Failure to thrive (FTT) is a condition in which children show a marked retardation or cessation of growth. On a normal growth chart, FTT children usually fall below the 3rd percentile of the normal growth curve. FTT can result from a medical condition, environmental factors such as neglect or disturbed parenting, or a combination of medical and environmental factors. Failure to thrive can be life-threatening, is usually diagnosed in children two years old and under and must be confirmed by a medical diagnosis.

What to look for:

- height and weight significantly below age level
- inappropriate clothing for the weather
- child abandoned or left with inadequate supervision
- untreated illness or injury
- lack of safe, sanitary shelter
- lack of necessary medical and dental care
- constant hunger
- tired, no energy
- often in need of a bath or other personal care

PREVENTION

By taking these simple precautions, you can spare yourself and your child the tragedy of shaken infant syndrome and provide your baby with a happier, healthier start in life.

The most important rule to remember is **never shake an infant under the age of two for any reason**.

Always provide support for your baby's head when holding, playing with or transporting her or him. Instruct others who care for your infant in the proper support of the head.

Make sure that all those who are in contact with your infant know the dangers of shaking. This includes babysitters, child care personnel and even siblings who might accidentally injure the baby in rough play if not properly warned.

Learn what to do if your baby won't stop crying. All babies cry a lot during the first few months of life.

Learn what to do if you shake the baby, either accidentally or on purpose. Even though you may feel embarrassed or guilty, it is imperative that you get the baby to the emergency room immediately. Bleeding inside the brain can be treated. Immediate medical attention will save your baby many future problems and possibly even save his or her life.

PHYSICAL ABUSE

Physical abuse is any non-accidental injury to a child under the age of 18 by a parent or caretaker. Non-accidental injuries may include beatings, shaking, burns, human bites, strangulation or immersion in scalding water, with resulting bruises and welts,broken bones, scars or internal injuries.

Child abuse is rarely a single physical attack, but rather a pattern of behavior that repeats over time. It occurs when a parent or other person willfully or maliciously injures or causes a child to be injured, tortured or maimed or when unreasonable force is used upon a child. Overdiscipline or punishment that is too severe may also constitute abuse.

The National Center on Child Abuse and Neglect estimates that as many as 100, 000 to 200,000 children are physically abused each year. From July 1, 1989, through June 30, 1990, Arizona received over 18,047 reports of child physical abuse / neglect.

Physical Indicators

- Unexplained bruises and welts are the most frequent evidence found often on the face, torso, buttocks, back or thighs. These can reflect the shape of the object used (electric cord, belt buckle) and may be in various stages of healing.

- Unexplained fractures / dislocations often involve facial structure and the skull; the bones may have multiple or spiral fractures.

- Unexplained burns, often on the palms, soles, buttocks and back can reflect patterns indicative of cigarette, cigar, electrical appliance, immersion or rope burns.
- Other unexplained injuries may include: lacerations, abrasions, human bite marks or pinch marks, loss of hair / bald patches from pulling, retinal hemorrhage, abdominal injuries and cuts.

Myth The majority of parents who abuse their children are mentally ill.

Fact Fewer than 10% of abusive parents have a mental disorder.

Myth Physical abuse only occurs in lower socioeconomic levels.

Fact Reports of physical abuse have been confirmed in all socioeconomic levels.

Myth Young children have frequent accidents that result in broken bones.

Fact Many broken bones in children under age two are the result of intentional injury.

Myth A physician's opinion is needed before a report of physical abuse can be made.

Fact Proof of injury is not necessary to make a report.

Myth Only children under age 16 can be reported as physically abused.

Fact Physical abuse to children under age 18 should be reported.

Myth Children who are being abused by their parents will ask someone for help.

Fact Children are usually afraid to talk about their injuries or are too young to ask for help.

BEHAVIORAL INDICATORS OF PHYSICALLY ABUSED CHILDREN

- Requests or feels deserving of punishment
- Afraid to go home and / or requests to stay in school, day care, etc.
- Overly shy, tends to avoid physical contact with adults, especially parents.
- Displays behavioral extremes (withdrawal or aggressiveness) suggests that other children should be punished for harsh manner.
- Cries excessively and / or sits an stares.
- Reports injury by parents.
- Gives unbelievable explanations for injuries.

SEXUAL ABUSE

Child sexual abuse is the exploitation of a child or adolescent for the sexual gratification of another person. It includes behaviors such as intercourse, sodomy, oral-genital stimulation, exhibitionism, voyeurism, fondling, and involving a child in prostitution or the production of pornography.

Incest is sexual abuse that occurs within the family. The abuser may be a parent, step-parent, grandparent, sibling, cousin or other family member.

Approximately 100,000 cases of child sexual abuse are validated annually in the United States. Arizona received 5,631 reports of child sexual abuse from July 1, 1989 through June 30, 1990. It is generally accepted that these figures are significantly less than the actual incidence of abuse, with 90 to 95% of the cases going unreported.

CHILD SEXUAL ABUSE STATISTICS

1. 1 in 3 (33%) girls will be sexually abused before the age of 18.
   1 in 6 (17%) boys will be sexually abused before the age of 18.

2. 89% of the perpetrators are known to the child victim.

3. Fabricated reports of child abuse constitute 1 - 4% of reported cases. 75% of the false reports are by adults and 25% of the false reports are by children.

4. Convicted child molesters have an average of 62.4 victims.

5. Children who grow up in a family where there is domestic violence have 8 times the chance of being sexually molested within that family.

6. Approximately 76% of prostitutes and 70 - 75% of adult and adolescent drug and alcohol abusers were sexually abused as children.

Although child sexual abuse may be a one-time occurrence, it more typically is an abusive relationship that lasts an average of one to four years.

Unfortunately many children do not report the abuse and rely on adults to be aware of specific behavioral and physical indicators. A child who persistently shows several of the following characteristics may be experiencing sexual abuse.

Remember: The most reliable indicator of child sexual abuse is the child's verbal disclosure.

Physical Indicators:

- Somatic complaints including pain and irritation of the genitals
- Sexually transmitted diseases
- Pregnancy in young adolescents
- Frequent unexplained sore throats, yeast or urinary infections
- Bruises or bleeding around penis, vagina or anus - infections or sores around genitals
- Difficulty in walking or sitting
- Strange or unpleasant odor (even after bathing)

Myth	Sex offenders can be easily identified as they are strangers who offer rides or candy to children.
Fact	89% of sex offenders are known to the child. They are family members and friends, neighbors and babysitters.
Myth	Most sexual abuse victims are teenagers who can protect themselves from exploitation.
Fact	Children of all ages are sexually abused; over 1/3 of the victims are five years old or younger.
Myth	Children often lie about being sexually abused.
Fact	Children typically do not have the experience or vocabulary to accurately describe adult sexual activity, nor do they lie to get themselves into trouble.
Myth	Incest offenders only molest children in their own families.
Fact	Research indicates that up to 50% of incest offenders also molest children outside their families.

BEHAVIORAL INDICATORS OF CHILD SEXUAL ABUSE

The following is a list of some of the common behavioral characteristics of children who have been sexually abused. These indicators are offered with a gentle caution against overzealous case identification. Any one of these indicators does not necessarily mean there is sexual abuse. They are general indicators of stress. Several, extreme or pervasive behaviors may indicate sexual abuse, and certainly warrant an exploration of the source of the problem.

Unusual interest in and / or knowledge of sexual acts and language inappropriate to the individual's age. The individual may focus on sexual matters to the exclusion of many other activities or interests.

- Seductive behavior with other adults.
- Excessive masturbatory behavior.
- Wearing many layers of clothing, regardless of the weather.
- Continual avoidance of bathrooms. Some abuse within homes takes place in bathrooms and some individuals come to associate any bathroom with sexual abuse.
- Reluctance to go to a particular place or to be with a particular person.
- Frequent abuse and / or late arrival at school, especially if the notes are always written by the same person.
- An abrupt change in behavior or personality.
- Drastic change in appetite.
- Anxiety, irritability, constant inattentiveness.
- Regression.
- Aggression, anger directed everywhere, especially if this is a sudden change.
- Chronic running away.
- Drug or alcohol abuse.
- Sleep disturbances, e.g. bed wetting, nightmares.
- Denial of a problem with a marked lack of expression.
- Lack of affect, extreme absence of expressiveness.
- Withdrawal, depression, excessive crying.
- Attempts to touch adult's, children's or animal's genitals.
- Inappropriate dress, such as tight and / or revealing clothing.
- Reluctance to go home, or constant early return.
- Marked decline in interests, in school performance.
- Suicidal gestures.

FAMILY INDICATORS

Stress is a major factor in child abuse. Too much stress can push even the strongest person to his or her emotional limits. Some common sources of such stress are:

Financial troubles - A parent may see a child's needs as a reminder of their own failure

Social isolation - without a support network of friends or family, the pressures of day-to-day living can pile up without relief.

Marital problems - strained marriages can erupt into child abuse.

Lack of knowledge about parenting - parents who know little about children may expect too much from them. When children can't meet unrealistic demands, parents may become abusive.

Illness - places financial and emotional strain on the family. Sick children may have special needs that create added burdens.

Abuse of alcohol or drugs - cripple a person's emotional control. It can lead to legal and financial trouble.

An adult who is abusing a child may:

- harshly punish the child in public.
- refer to the child as "bad," "different" or "difficult."
- seem unconcerned about the child.
- give conflicting stories about injuries.
- become defensive when asked about the child's health.

About Child Abuse, Channing Bete Co., 1989

CHARACTERISTICS OF SEXUALLY ABUSIVE PARENTS

The most typical type of reported intra-familial sexual abuse occurs between an adult male, either the father or the mother's sexual partner, and a female child living in the same house.

These parents

1. have low self-esteem
2. had emotional needs which were not met by their own parents
3. have inadequate coping skills
4. may have experienced the loss of their spouse through death or divorce.
5. may be experiencing overcrowding in their home
6. may have marital problems causing one spouse to seek physical affection from a child rather than the other spouse (a situation the "denying" spouse may find acceptable)
7. may abuse alcohol
8. lack social and emotional contacts outside the family
9. are geographically isolated
10. have cultural standards which determine the degree of acceptable body contact.

The Adult Male

1. is often a rigid disciplinarian
2. is passive outside the house
3. does not usually have a police record, nor is he known to have been involved in any public disturbances.
4. does not engage in social activities outside the home.
5. is jealous and protective of the child
6. often initiates sexual contact with the child by hugging and kissing, which tends to develop over time into more caressing, genital-genital and oral-genital contacts.

The Mother

1. is frequently cognizant of the sexual abuse but subconsciously denies it.
2. may hesitate reporting for fear of destroying the marriage and being left on her own.
3. may see sexual activity within the family as preferable to extra-marital affairs.
4. may feel the sexual activity between father and daughter is a relief from her believed wifely sexual responsibilities and will make certain a time is available for the two to be alone
5. often feels a mixture of guilt and jealousy toward her daughter.

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HOW CHILDREN TELL ABOUT SEXUAL ABUSE

INDIRECT HINTS

"I hate boy babysitters"
"My brother keeps bothering me at night"
"Mr. Jones has a real soft bed"

Children may talk this way because they are checking your reaction, they don't have the vocabulary to describe the abuse, or they may be to embarrassed to be more specific. Encourage the children to be more specific, but remember that you do not need all the details of the abuse in order to make a report.

DISGUISED DISCLOSURE

"I have a friend whose Dad is touching her."
"What should my friend do if she told her mother she was being molested and her mother didn't believe her?"
"My friend's sister is too scared to tell because her Dad said he would beat her."

These children may very well be talking about themselves. Encourage them to talk about the other child. They may then tell you who they are really talking about. Be sure to discuss the options for getting help.

DISCLOSURE WITH FEAR OF CONSEQUENCES

Most children are aware of what will happen to them and their families if they tell. Most have been threatened to keep the secret. Tell them you are there to help them and part of that help is obeying the law and reporting to other adults who can get them the help they need. Assure them that you will not tell anyone besides the people who need to help. Give them a choice of how to speak and what words to say.

BARRIERS TO DISCLOSURE - WHY CHILDREN DON'T TELL

- Children feel responsible - as partners, not victims.
- Children fear disbelief from adults.
- Children believe threats from the offender.
- Children avoid disappointing adults by reporting something repulsive.
- Children resist talking about "nasty things."
- Children are handicapped in knowing how to describe what has happened to them.
- Children are taught not to tattle.
- Children are taught to be respectful of adults. Children fear getting in trouble or disobeying an adult who has requested secrecy.

BREAKING BARRIERS - WHY CHILDREN TELL

- Children tell when they come into contact with someone who appears to "already know."
- Children tell when they come into contact with a confident person who does not appear to be judgmental, critical or threatening.
- Children tell when they believe a continuation of the abuse will be unbearable.
- Children tell when physical injury occurs.
- Children tell if they receive sexual abuse prevention information.
- Children tell to protect another child.
- Children tell if pregnancy is a threat.
- Children tell when they come into contact with someone who may protect them.

*Center Against Sexual Abuse

SUSPENDING JUDGEMENT

VALUES CLARIFICATION

The patterns of identifying and reporting child abuse may be interpreted differently by each individual, based on one's cultural attitudes toward the causation as well as many other personal beliefs. Child abuse, its prevention and treatment can be interpreted as mirroring our shared attitudes about it.

Reflection on traditional orientations as well as Anglo models should be examined. Ultimately, our own values must be acknowledged for effective intervention and treatment. Multiple decisions and a total look at all possibilities including Anglo physicians, faith-healing churches, traditional White Mountain Apache religion, medicine men, ceremonial therapy, accessibility to transportation, family values, etc. should be honored and respected.

Recognizing our own values in order to suspend judgement is a key factor in child protective services. The following story regarding incest will be used to facilitate group discussion.

VALUES CLARIFICATION EXERCISE

I am eight years old. I am part of an Apache family. I live in a three-room house. I'm not really sure, but I think the house belongs to Daddy 'cause he's the one who goes to work. Mommy stays home with me and Jimmy. She plays with us, cooks us dinner, makes me clothes, sews pretty things, and braids my hair so I can look pretty when Daddy comes home. Daddy loves me, too. When he comes home, we play games. Sometimes Daddy holds me on his lap and lets me play with the buttons on his shirt. There's a lot of room on Daddy's lap because of his big tummy. But his tummy feels warm. I love my Mommy and Daddy. Me and Jimmy get to go to school where we learn things.

One night I heard Mommy and Daddy talking and they didn't know I was listening. Mommy said that she wanted me to have my own room and my own bed so I didn't have to share with Jimmy. I got really excited. My Mommy and Daddy love me. They want me to have my own room. Then Mommy and Daddy started yelling at each other. I couldn't tell everything, but it was something about not having enough money and Mommy going to work like Daddy. I think it would be fun having a big house. I wish Mommy and Daddy wouldn't fight. I thought I would like a new room and a new bed.

But now I cry when I go to bed. I cook for us three nights a week because Mommy is working. At first, it was okay. When Mommy was gone, Daddy would play games with me and tickle me and told me secrets and told me he loved me. He gave me things too. Like candy and pop. He told me I'm his favorite but I shouldn't tell Mommy 'cause it would hurt Mommy and then she wouldn't love me.

Now when Daddy tells me to go to bed, he lies behind me in the dark. He tells me he loves me. He rubs against me, and he breathes loud like when he snores. Something hard pushes against me, then under my bellybutton. It bursts all over me in a wet, sticky stream. I hold my breath, feeling sick like when you go really fast on a merry-go-round.

Daddy says don't tell 'cause Mommy won't love me. Daddy says he won't love me if I don't do what he says. One time I told him I was gonna tell anyway, when he's not around. I hate my new room.

CIRCUMSTANCES OF THE INTERVIEW

Infancy (Birth to 1 year)

Protect the child from any further abuse by preventing contact with the offender and reducing the number of strangers to whom the child is exposed.

Spend more time holding and cuddling the child.

Tell the child that you are sorry for what happened whether or not you think he or she can fully understand.

Toddler and Early Childhood (2 - 5 years)

Offer the child physical affection.

Answer the child's questions about the incident calmly and honestly.

Reassure the child in words and actions that he or she is safe and loved. Talk with the child and discuss the incident. Most children welcome this, but some might be resistant. If so, do not push the child to talk about it.

Allow the child to draw or play with dolls or toys regarding the incident. This allows the child to resolve his or her anger instead of expressing it in aggressive or sexual play with friends.

Explain to the child that your talks about what happened are only shared with people who can help and are not made public knowledge.

Establish clear methods of protection, monitoring and communication.

Latency (6 - 9 years)

Give the child love, affection and support.

Create an open atmosphere in which you can talk with the child regarding the incident. This will alleviate much anxiety.

Provide clear boundaries and protection mechanisms.

Preadolescence (10 -12 years)

Encourage the child to discuss the incident.

Avoid overprotection.

Keep all the lines of communication open; the child might not want to talk with you about the incident at a given time. Allow the child to decide when he or she wishes to discuss it.

Consider group educational and therapy approaches.

Give the child the opportunity to talk with another trusted person if he or she cannot talk with you about the incident.

Help the child understand what happened and the possible reasons for it.

Adolescence (13 -17 years)

Offer the child support and willingness to talk about the incident.

Encourage the child to seek outside professional help, including ongoing counseling and treatment.

Avoid being overprotective.

Encourage group and family therapy approaches, as well as individual therapy.

Encourage the child to find out more about abuse and its dynamics by reading and talking to other professionals and victims.

Give the child the opportunity to express his or her anger in appropriate ways that are not abusive to the child or others. These might include talking, drawing, or pursuing some physical activity.

Encourage the child, with the aid of a therapist, to confront the offender in an assertive and mutually helpful way.

Spiders and Flies, Donald Hillman and Janice Solek - Tefft, **pg. 55-57**.

1. Try to interview the child alone.
2. Try to obtain the child's version of what happened independent of the parents', caretakers' or suspected perpetrator's version. Especially avoid having the child present during the adult's description of what transpired.

INTERVIEWING

The interview from a therapeutic perspective, serves two important functions. First, it provides the interviewer with observations and data to assess the amount of psychological stress the child and family members are experiencing. Second, it provides pertinent information about the assault.

THE THERAPEUTIC INTERVIEW

Preinterviewing Considerations

In preparation for an interview with a child, three factors need to be assessed: information regarding the person who has reported the assault, when the assault occurred, and an analysis of the child's emotional style. Data in response to these questions provide you with a framework within which to direct your inquiry.

First, who has reported the assault, and how has it come to your attention? Did the child report to a parent, or have neighbors complained to the police about the behavior that they suspect? Is the child willing to talk? Is she or he frightened over the disclosure of the situation? In the following case, it took considerable time to elicit this information from the father, who had brought his daughter into the hospital for an examination: The counselor, when the child was being examined, asked the father what he had observed in his daughter; had he observed changes or ways she was upset? The father had a hard time answering. He said he hadn't noticed or observed anything. The counselor asked if the daughter was upset. Finally the father said, "My wife found out. Friends told my wife, and my wife told me." This information tells you that other people in the social network knew about the situation, and the parents were not reporting any behavioral changes.

Second, what is the timing of the assault in relation to the interview? If the assault has just happened and you are seeing the child immediately following the assault, the opportunity for crisis intervention and crisis counseling is apparent. Timing may affect the personality defense structure of the child. For example, in an acute crisis situation, the material should be more accessible to the child's memory, and psychological defenses may be lower in terms of blocking the details of the assault. The child may or may not want to discuss it when she is upset and in a crisis state. If the assault has occurred over time, the child may have more difficulty talking about it because the material may be less accessible and dimly in memory. A coping pattern of dealing with the assault - such as depression and denial - may have developed.

The third factor for consideration is the observation of the child's emotional style. Two styles are usually obvious: the expressive style and the controlled style. In the expressive style, the child is able to show how he or she feels about the situation. For example, the child may cry or look upset and state that he/she feels disturbed or confused. In the controlled style, the child is quiet, nonverbal, and generally not showing any feelings. There may be no eye contact, and the interviewer may need to use special techniques to learn how the child really feels.

Initial Approach to the Child

The professional style of the interviewer is an important factor in the initial meeting with the child. Professional style means regard for clients and how this is transmitted, such as through the way you meet the child, the way you introduce yourself and the subsequent dialogue. The child, as well as family members, will be watching you to see if you are concerned, interested and respect them as individuals. The child and family members need to know who you are and the agency or discipline you represent. The next task is related to professional competence and involves establishing credibility. You need to prove your expertise and somehow convey your experience to the child. You can establish that this is part of your work ("I talk with children who have had something like this happen" or "I talk with children regarding upsetting situations that have happened to them").

Establishing an Alliance

The main task now, assuming the child has permitted the introductions and seems ready to proceed, is to get the child to trust you. First, try to establish how the child perceives you so that you can assess if some degree of trust is present ("How do you feel about talking with me about what happened?"). Find out what the child has been told about the interview ("What did your parents tell you about why you are here?").

If the child had no preparation for the visit, you should try to provide as much concrete explanation as possible. However, if you determine through asking the child, that he or she knows why he or she is seeing you, acknowledge that the child is correct and that the parents have explained the visit properly and continue with the interview.

Our work with adult victims, as well as children, has convinced us that using the "request" format - researched and described in detail by Lazare et al. - helps children to see that there is something in this interview for them. To effectively use the request model, the interviewer asks the child, at some point in the interview, how the child hopes or wishes to be helped. In some situations, the request is something the interviewer can agree to do ("I want Daddy to stop it."). In such a situation, the interviewer can outline, with the child's help, the action that can be taken to be sure the father's incestuous behavior stops. Sometimes the child's requests may not be reasonable to the professional ("I don't want you to tell anyone about this."). In such cases, the interviewer would have to spend time on the issue before proceeding ("The law says this behavior must be reported, but we can first work out the details of how this is to be done, who specifically will know and what the results will be, and you will know exactly to whom you can go for protection."). Sometimes the child does not know exactly how to tell what he or she wants and asks you what you can do. You can respond, "I can first listen to you tell me what happened. Then we can talk about how else I can be helpful when I hear what other requests you have."

Lazare, et al., in another study, state that there is conflict in all relationships and that this dynamic particularly needs to be addressed before any therapeutic progress is started. One way to deal with the conflict is to negotiate. This negotiation phase follows identifying the request and deciding how the interview can be helpful to the child. The child states his or her request, the interviewer states what services can be delivered, and then there is a compromise over what to do. The child essentially needs to understand that the interviewer wants to try to understand, that together you both have business to do and agree to that fact ("After you tell me what happened, we can talk about what you want to happen next."). In the case of a five year old boy, the child's request was to draw pictures with the markers the counselor had brought to the session, and they negotiated that the boy could draw pictures while he talked with the counselor. The child also requested to take some paper and pencils home with him, which was agreed upon in exchange for his talking with the counselor.

Most often the child has been a victim of dominance - someone has had power and control over the child. A therapeutic task is to try to neutralize this psychological trauma and return some degree of power and control to the child. The interviewer can acknowledge those areas in which the child does have control and negotiate those in which the child's control would be unreasonable to professionals, but the interviewer should allow the child to still have some voice in the outcome. For example, children should have some input into decisions regarding the perpetrator. Children can be asked their opinions, told the outcome of any decisions and told how the decision was made. Such a procedure is respectful to the child and indicates to the child that he or she is being taken seriously in efforts to deal with the entire situation.

Description of the Assault

Encourage the child to give a description of the assault. The aim of the interview is to get the child to tell the complete story. Let the child identify the problem in whatever language he or she wishes. Avoid stating your perception of the assault or what you have been told. Technical jargon often increases the child's anxiety, confusion and distrust. If you have to, interrupt the child only for clarification or to encourage the child to continue. Interruptions interfere with the mood and environment for the interview. Verbal prefaces may help to facilitate the child's talking ("It is important for you to tell me so that I can help you."). Avoid direct questions that force the child to answer with yes or no. Such tactics are not helpful in encouraging details and expression of feelings. By allowing the child to tell the story at his or her own pace, you will allow the child to have more control of the situation. The more control the child has, the more he or she will participate in the interview and talk.

Move from general to specific details of the assault. Ask questions pertaining to what the child was doing before the assault, why he or she was there, what else was going on at the scene to help set the time and situation of the assault. Try to reconstruct the child's day ("What were you doing on that day? What was the weather like? Were you playing inside or outside?"). Ask how the person entered the picture, and try to learn what the person was doing. Were they in the situation because of some socially acceptable reason as babysitter or bus driver? Where were other family members and was any protective adult around?

The use of age-related media may be most useful in encouraging the child to explain the event. Having the child draw pictures may bring about much information about the situation.

Identify the consequences of telling, as perceived by the child. It is important to remember that children are easily frightened and that intimidation is a tactic frequently used by perpetrators. Threats are an easy way for adults to keep children in line. Try to deal with the child's fear ("What has frightened you the most about this situation?"). Then try to decrease the child's anxiety ("It is good that you have been able to tell someone so that we can now try to do something to help.").

Assessing the Impact of the Assault

After the child has described, as best he can, the details of the assault, the interviewer should focus on any changes in lifestyle or other symptoms that have developed since the assault. Ask specifically about changes in eating or sleep patterns. Is the child having bad dreams or nightmares, and if so, have the child describe them in detail. Can the child concentrate in school? How often does the thought of the assault come into his or her mind? Does the child think other people know about the assault, people she or he has not told? Does the child report any physical symptoms: stomach aches, difficulty urinating, listlessness or restlessness? Has the child had any illness during the time of the assault or since the rape occurred, and did the child receive immediate medical attention? Is the child playing with friends and going to school and engaging in other activities?

How have family members reacted to the news of the assault and to the child? Have siblings been told? What have siblings said? Parents may blame the child, blame the perpetrator, or blame themselves: what does this family do? If the perpetrator is a family member or known to the family, how is the divided loyalty issue handled? What family members have sided with whom?

These questions may be asked during the first interview or on follow-up sessions. The answers help the interviewer evaluate the degree of disruption in lifestyle, which in turn is helpful in determining victim counseling intervention.

In summary, the interview of young persons regarding sexual trauma should have therapeutic purposes as well as the purpose of gathering information. We know that many children, adolescents and adults are hesitant to report a sexual trauma in a general interview session. Therefore, we suggest that clinicians should consider asking routinely during interviews if a person has ever been pressured or forced into a sexual situation. Similarly for perpetrators, clinicians should also consider asking clients if they have ever pressured or forced anyone into a sexual situation. If a sexual trauma is uncovered, the exploration of the assault through the interview process should be continued.

Sexual Assault of Children and Adolescents, Burgess, Groth, Holstrom, Sgroi pgs. 171-180

GENERAL APPROACH TO INTERVIEWING

A. Keep an open mind. "Recognition of sexual molestation in a child is entirely dependent on the individual's inherent willingness to entertain the possibility that the condition may exist."

B. Keep cool. Sexual molestation of children is such an emotional-laden topic for most people that objectivity requires much effort and self-discipline. Nevertheless, it is almost impossible to protect or help the child victim in the absence of a calm and professional approach.

C. Keep awake. Be aware that situations of child sexual assault are the most volatile and potentially dangerous of all social problems from the usual perspective of the family and community. Even as you are remaining calm and objective, remember the potential for violent reaction on the part of other participants.

Interviewing for Facts. This may precede the medical examination or else be initiated as part of the medical examination.

Approach to the Child:

1. Try to convey a relaxed, unhurried attitude throughout. If you are anxious, uncomfortable, hurried or ill-at-ease, the child will quickly pick this up and be affected accordingly.

2. Establish a relationship with the child prior to discussing the alleged assault. Avoid "zeroing-in" on the topic of the assault prior to establishing a relationship.

3. Identify and establish the child's level of understanding of human anatomy. Find out what terminology he or she uses to identify organs and functions. Be prepared to use the child's own terminology if he or she is too young to use appropriate terms. If necessary, use diagrams, pictures or dolls to illustrate or act out what may have occurred.

4. Don't dwell too heavily on the identity of the alleged perpetrator. Avoid a "whodunit" approach.

5. Avoid being judgmental about information supplied by the victim. Don't presuppose the experience was bad or painful for the child - it may have been neutral or even pleasurable. Avoid projecting your own feelings or perceptions about the situation onto the victim.

Interviewing for Therapeutic Purposes

1. Child self-expression: Encourage the child to talk, bearing in mind that family members may discourage the child from verbalizing their reactions. Use of media (pictures, dolls or puppets) may also assist the child to express reactions.

2. Child reassurance: Be prepared to reassure the child about:
   a. Possible physical damage to himself or herself
   b. Potential consequences to child because of his or her own role in the incident (children are likely to be fearful of punishment)
   c. Feelings of shame or guilt - these should be anticipated in all child victims, regardless of the degree of their cooperation with the offender.

3. Parent reassurance: Be prepared to reassure parents about potential consequences of the assault for the child.

4. Parent participation: Enlist parents' aid in encouraging the child to express and "work through" reactions to the incident.

Approach Toward Child Protection

1. Reporting. Be prepared to report all cases of child abuse.

2. Avoid Confrontation. Avoid confrontation between the child and the alleged perpetrator whenever the alleged perpetrator is a family member. Never confront the alleged perpetrator with the child's own accusation against him or her in an intrafamily situation unless you are certain that the child or alleged perpetrator can and will be removed from the home. To permit or initiate this type of confrontation in the absence of an effective plan to protect the child from possible retribution by the perpetrator is to risk serious bodily injury or even death to the victim.

3. Offender-Child Relationship. Don't presuppose that the relationship between the child and perpetrator following the alleged incident will be negative if sexual assault actually occurred. On the contrary, a warm affectionate and loving relationship may exist and continue between the child and an incestuous parent. Observable evidence of spontaneous, fearless and affectionate behavior between the child and alleged perpetrator neither supports nor disproves the allegation of sexual assault and should not be cited or treated as such.

4. Sex Bias Concerning Targets. Because females are traditionally regarded as the most common targets of sexual assault, it is easy to harbor a built-in bias that the only child victims of sexual assault are little girls. Do not overlook the very real possibility that little boys may be targets of sexual assault as well in both intrafamily and extrafamily situations. All too often attention is focused on female children in a situation where male children are equally or perhaps at greater risk, depending on the circumstances. Whenever child sexual assault is being investigated, both male and female children should be considered possible targets and interviewed and examined accordingly.

5. Continuum of Exposure. In general, the incident of intrafamily child sexual assault that comes to community or professional attention is rarely the first incident that has occurred within the family. Be aware that the incest phenomenon usually proves to be a continuum of exposure to sexual contact experienced by the child victim over a long period of time. A continuum of exposure should therefore be presupposed by the investigator unless specifically proved otherwise and investigation and examination proceed accordingly, regardless of how long ago the alleged incident is said to have occurred.

6. Irresolution. Every professional who is called upon to assist child victims of sexual assault must learn to live with irresolution of many cases. Frequently, the total facts elicited by investigation will neither support or disprove the allegation. Do not automatically regard all unproved cases as unfounded. Child victims of unproved cases are often more needy of professional support and assistance than are proved victims of child sexual assault.

INTERVIEWING FOR SEXUAL ABUSE

A method frequently used by unsophisticated professionals to assess the validity of a sexual assault complaint by a child is to confront the parent with the child's unsupported accusation to see if the parent reacts in a manner compatible with the investigator's perception of an "innocent" man's response. This method is not only extremely dangerous for the entire family, (especially the child who is thereby placed in the role of the accuser) but also is based on the erroneous supposition that direct confrontation by a child's accusation is an effective method of affixing blame or eliciting a confession of wrongdoing from an adult in any type of child maltreatment situation. As David Copperfield and Oliver Twist well knew, it is not. In child sexual assault situations, professionals should always avoid setting up such direct confrontation situations unless they are certain that it will be possible to separate the suspected perpetrator and the target child (preferably the mother and other children as well) immediately thereafter via arrest of the suspected perpetrator or temporary orders of custody for the child or children involved.

Every community needs to have a few professionals available who are both skilled and experienced in interviewing child victims of sexual assault for investigative purposes. In many cases, especially where the perpetrator is not a parent, investigative and therapeutic interviewing can, in effect, be done simultaneously, so long as the interviewer is prepared to utilize standard crisis intervention theory. This includes observing the child's emotional style, establishing interviewer credibility, developing and then proceeding with the "request concept," and assisting and supporting the child in remembering facts and details that will aid the prosecution to establish a case against the perpetrator. Establishing an alliance with the child and use of media to help the child "open up" and enhance recollection are extremely important. There is evidence to suggest that this process can be extremely helpful in assisting children to integrate and resolve the sexual assault incident as well.

Since it is neither feasible nor desirable for all professionals who deal with children to develop extensive interviewing skills and experience in this area, it would be well to concentrate on developing a few such "specialists." Such individuals could conceivably originate from a variety of disciplines, e.g. social work, nursing, psychology, medicine, law enforcement, but the need for both specialized training and experience is obvious. They should be professionals, however, adding specialized interviewing skills and experience to a pre-existing knowledge base acquired in pursuit of a professional degree. The credibility of the interviewer as an "expert witness" in court, and his or her ability to make recommendations and provide consultation for other practitioners, would thereby be greatly enhanced.

The time and circumstances of the investigative interview should be carefully considered. This type of interviewing takes time and frequently requires multiple contacts. The success achieved may well be influenced by the degree of preparation for the interview and the number of times the child has been interviewed before in addition to the number of blocks intrinsic to the sexual assault situation itself.

Sexual Assault of Children and Adolescents, pp. 137-138.

CHILD CREDIBILTY FACTORS

COGNITIVE	***PERSONALITY***	***DESCRIPTION OF EVENTS***	***EXTERNAL EVIDENCE***
Memory Intelligence	Maturity level Sensitivity to others	Consistency of story over time Consistency of story across tellings to different people	Witness Physical or medical signs
Intelligence	Absence of telltale signs the child is lying	Story the same across verbal and action domains (role-playing or doll playing)	Direct observation
Ability to distinguish fact from fantasy and lie from truth	History of honesty in emotionally charged situations	Emotional tone congruent with story	Tangible communications such as notes, letters, tapes or drawings
	Presence of symptoms, signs and effects associated with sexual abuse	Description of interactions logical and realistic, though often not completely understood	Other concrete manifestations
	Absence of significant history of lying or making-up stories	Child's story resistant to modification, even when confronted, pushed, prodded or led	
		Absence of important motive (other than the abuse) for attacking alleged offender or revealing the abuse	

Spiders and Flies, Hillman and Solek-Tefft, pg. 50.

RESPONDING TO A DISCLOSURE

1. Don't pressure the child to talk. It is better to go slowly, not to ask too much too quickly. Concentrate on the needs of the child.

2. Believe the child and take the information seriously. Reassure them that you do believe them.

3. Control your emotions:
    Don't panic. Stay calm.
    It is normal to feel fear or anger, but such reactions could frighten the child.
    Let the child know that any feelings of anger are not directed at them.

4. Use the language of the child. Whatever terms they use for body parts, accept them and use them.

5. Do not make promises you cannot keep. The child might want something done to the offender now. Reassure the child that what you will do is everything in your power to keep the child safe.

6. Determine the child's immediate safety.

7. Let the child know what you are going to do next. Let them help decide.

8. Write down everything the child has told you. Even if you think it isn't important, write it down

STATEMENTS TO USE - THINGS TO SAY

-It's okay to talk about. I'm glad you told me.
-I'm sorry this has made you unhappy or hurt you.
-This was not your fault.
-You have a right to be safe.
-You won't be punished for telling.
-The person who did this to you is wrong and they need help so they won't hurt anyone again.
-I care about you and the reason I'm here is because I want to keep children safe.

To encourage a child to be more specific, you might say:

-Tell me what happened. I'll listen.
-Did something scary happen to you?
-Tell me what happened next.

- -Use your own words. It's OK to go slowly - Does anyone ever bother you at home?
- -Are you afraid of someone?
- -Is there anyone making you do something you don't like?
- -Has anyone hurt you?
- -Are there any secrets that you have been told not to tell that need to be told?

REDUCING BLAME - THINGS NEVER TO SAY

Do not put words into the child's mouth. Do not say:

- -Did Dad put his hand in your panties?
- -Are you sure this really happened?
- -I'll take care of you.
- -I won't tell anyone else.
- -This is a dirty, bad thing that you did.
- -Why didn't you just say "No?"
- -Just forgive the person and move on.

LISTENING TECHNIQUES
(NON-DIRECTIVE AND DIRECTIVE)

Technique	Example
Using Silence	Gives the person a chance to reflect on what they have said
Accepting	Yes, uh-hum. I follow what you have said. Nodding
Offering Self	I'll sit with you awhile. I'll stay here with you. I'm interested in your comfort.
Giving Broad Openings	Is there something you would like to talk about? What are you thinking about? Where would you like to begin?
Offering General Leads	Is there something you would like to talk about? What are you thinking about? Where would you like to begin?
Placing the Event in Time Sequence	What seemed to lead up to . . .? Was this before or after . . .? When did this happen?
Making Observation	You seem tense. Are you uncomfortable when you . . .? I noticed that you were biting your lips? It makes me uncomfortable when . . .
Encouraging Comparison	Was this something like . . .? Have you had similar experiences?
Restating	Speaker: "I can't sleep. I stay awake all night." Listener: "You are having trouble sleeping."
Reflecting	Speaker: "Do you think I should tell my parents?" Listener: "You are wondering whether your parents should know?" Speaker: "My brother spends all my money and then he has the nerve to ask me for more." Listener: "This causes you to get angry."

Focusing	This point seems worth looking at more closely. Tell me more about that.
Exploring (probing)	How did that make you feel? Would you carry that a little further?
Presenting Reality	I hear no one else in the room. But you aren't a child any more. But you are flunking the course.
Voicing Doubt	Isn't that unusual? Really? I find that difficult to accept.
Seeking Consensual Validation	Tell me whether my understanding of it agrees with yours. Are you using this word to mean that?
Verbalizing the Implied	Speaker: "I can't talk to you or to anyone. It's a waste of time." Listener: "Is it your fault that no one understands?" Speaker: "My wife pushes me around just like my mother and sister did." Listener: "Is it your impression that all women are domineering?"
Encouraging Evaluation	What are your feelings in regard to . . .? Does this also make you uncomfortable?
Attempting to Translate into Feelings	Speaker: "I'm dead." Listener: "Are you suggesting that you feel lifeless or is it that life seems without meaning?"
Suggesting Collaboration	Perhaps we can discuss and discover what produces your anxiety.
Summarizing	Have I got this straight that . . .? You have said that . . During our discussion, you and I have discussed . . .
Encouraging a Plan of Action	What could you do to let your anger out harmlessly? The next time this comes up, how might you handle it?

ADVANTAGES OF ACTIVE LISTENING

- It shows sender that you are interested in them as a person.
- It proves to sender that not only have your heard them, you have understood.
- It is your check on the accuracy of your decoding.
- It gives the sender a chance to ventilate, to have a catharsis, to feel relieved, to release the grip of the feeling on the sender. Feeling can be transitory.
- It communicates acceptance of the sender.
- It fosters the sender to do their own problem definition and problem solving. It keeps the responsibility with them, yet you remain involved.
- It fosters the sender from moving from a superficial to a deeper, more basic problem.
- It fosters the sender dealing with feelings, not facts.
- Frequently fosters insights - new ways of seeing things, new attitudes, new behaviors, new understandings of self.
- Fosters the other person being more open and honest with you more willing to use you as a helping agent.
- Promotes a more intimate and warm relationship.
- It helps sender grow toward being their own problem solver, being less dependent on others for solutions, toward being more self-responsible, more self-directing - master of their destiny.
- Listener hears new data.

ERRORS IN ACTIVE LISTENING

- Overshooting - exaggerating the feeling.
- Undershooting - minimizing the feeling.
- Adding - adding in an insight helper is pushing.
- Omitting - ignoring material helper wants extinguished.
- Lagging - repeating various feedbacks, going back to old material.
- Rushing - providing the insight the client is about to have, beating them to the punch.
- Parroting - not hearing the message, only the code.
- Analyzing - going beyond the message, generally adding helper's guess as to why client feels a certain way.
- Using active listening when client's behavior is causing a helper problem. Helper's own problem.
- Using active listening when helper has behavioral or attitudinal objective for client.
- Using active listening when client needs specific help or information from helper.
- Active listening without expressing non-verbal empathy. For example, maintaining "professionalism."
- Focusing feedback on objects of clients concerns versus on client and effect on them.
- Starting feedback with same phrase.
- Using active listening to obtain data which helper then uses to move in with roadblocks - solutions, evaluations, etc.

CLARIFYING RESPONSES

- Responses which encourage the helpee to look to their life, ideas, feelings, behavior and to think about them.
- They are accepting and illuminating, not moralizing, criticizing, giving values or evaluation.
- They are often open-ended questions. They lead the helpee to no specific answer.

Examples:

- How do you feel about that?
- Is that important to you?
- What does this mean for you?
- Have you felt this way for a long time?
- What do you mean by . . .?
- What would be the results of each of those alternatives?
- How would these ideas work out in practice? (How will you feel afterward?)
- What are the good things about . . .? What are the bad things about . . .?
- What other possibilities are there?
- Was this a hard decision?
- What choices did you reject before you settled on your present decision?

Cautions (clarifying response . . .)

- Should not be premature. The helper should have listened sufficiently to the helpee so they they understand the problem and can be helpful.
- Should be used after helper has gained helpee's trust.
- Should not be an interrogation or lead helpee to make a yes-no answer.
- Should not being with "why."

RECANTING

Can children be believed? According to Harvard Medical School psychiatrist Judith Herman, society has long intellectual tradition that discredits women and children when they complain of sexual assault. She says that false charges are rare, and more commonly, there are false reactions to true complaints after a child gives in to family pressure not to testify against an abusive relative. Child advocates won't deny that children invent tales sometimes. Attorney David Lloyd of Washington's Children's Hospital has a simple test: listen for details the child would not know if he or she had not witnessed sexual conduct. As Minneapolis psychologist Michael O'Brien says, "Children just don't fantasize about Daddy going peepee in their mouth."

Evidence: Technically, in most states, the victim's testimony alone is enough to win a conviction, but in practice, prosecutors prefer to have more evidence. Only Nebraska and the District of Columbia still require independent corroboration to prove sexual abuse. In 1984, New York repealed that requirement much to the relief of prosecutors who can now take action based on the information children tell them.

Judges and juries tend to be most suspicious of abuse charges that are a part of a divorce or custody fight, because children can be used as pawns. Judges and juries recognize that possibility, and as a result may overlook serious abuses, especially given the mix and match nature of the modern family, according to Washington, D.C., psychologist-lawyer Donald Bersoff. He suggests that judges interview children alone. Questions about touching are safe entrees to the subject. More specific questioning is for children who exhibit either physical or behavioral symptoms of incest.

Newsweek, May 1984.

Intentional disclosure usually is made by an older child or adolescent, precipitated by the age-appropriate desire to break the parental bonds, including incestuous bonds and develop peer ties. The disclosure is often done out of anger, without the child realizing the extent of the consequences. As a result, the child may retract the testimony later, fearing the impact on the family and themselves. From a treatment standpoint, disclosure is the most successful when the whole family is ready to stop the incest, not just the child. The child wants out, and often by this time the non-abusing parent is ready to "hear" the facts and take the appropriate action. The incestuous parent, too, may be willing to let the child grow up, admit to and stop the incest.

American Journal of Nursing, August 1984.

Two powerful lies that an abuser may tell are that no one will believe them and they will send them away. First, believe the child and secondly, accompany and or support the child through the process of getting help. When you "send" the child to the nurse, the police or others, you may have fulfilled one of the threats. Many times that is enough to cause the child to recant the story.

TREATMENT

Victim Counseling

The two main techniques we suggest for settling sexual trauma and abuse at the time of the disclosure are: 1) encouraging the child to talk and 2) the use of media and age-related toys.

If the child is encouraged to talk about the experience, there is a better chance 1) that the child will settle his or her feelings about the entire situation, 2) that the family will be able to deal more openly with their feelings, and 3) that the experience will be integrated as a life occurrence for the child.

Victim counseling is an issue-oriented model of crisis intervention. Four victim crisis concepts form the conceptual framework for victim counseling. These concepts are as follow:

1. Sexual assault and abuse may be experienced as an external crisis for the victim, family and often the community. The main task in victim counseling is to help the victim and family return to the pre-crisis level of functioning.
2. The sexual assault or abuse, as an external crisis, interacts with the internal or developmental issues currently being faced by the victim.
3. Going to court recapitulates the original assault and can assume crisis proportions to the victim and family.
4. One external crisis has the potential for activating additional crisis situations. One most obvious complicating factor is when the offender is a family member. In such a case, the issue of divided loyalty will be raised and needs to be dealt with as a family issue.

Assessment Areas

The counselor's task in counseling young victims is 1) to carefully assess the child in general terms as well as specific ones, and 2) to utilize techniques that are useful to children in talking about stressful events.

Developmental Baseline. The counselor needs a baseline on which to be able to monitor or evaluate changes - either positive or negative - in the child's behavior. The counselor also needs an assessment of the child's biophysical assets and restrictions. This information can help to tell where the child is developmentally. Some basic questions to be asked are: Is the child in the age-related school grade; Does he or she know as many words as the average child; Can he or she answer questions readily and intelligently; Is his or her intelligence equal to the age group; Is his or her physical, behavior and social growth compatible with his or her age group? If not, the areas should be noted.

Child's Response to Stress. It is essential to assess how the child normally handles an upsetting, stressful situation. Ask the child what other upsetting things have happened in his or her life that he or she remembers. Also ask the child about events that have been related by their parents. This question will help determine the type of situations the child finds upsetting and the language the child uses to describe these events. Then ask the child what he or she did or does about these situations. For example, does the child cry or refuse to go anywhere? Is there someone special the child talks to or feels understands him or her? Questions of this type help to provide a baseline on the child's thoughts, feelings, and actions in terms of stressful events.

Family integrity. It is important to try to assess the integrity of the family in terms of family ties. The family is a potential resource to the child as well as a potential liability. The assessment tries to determine how much strength the family can offer the child or how rejecting they may be to the child. Questions to help in this area include: who is in the family; who is living in the family home; what activities occupy the family as a group (e.g. social activities, religious events, traditional events); what extended family members are important to the child and family; what family members are closest emotionally to each other; what members are carrying out their responsibilities; how do family members view the child who has been victimized?

Family Response to Stress. It would be important to know what types of crises the family has experienced in the past; how they handled those crises; are they currently encountering any crises; in what way do family members decrease or increase the stress tolerance level in a family? What are the strengths in the family; who are the strong, supportive members? What good, happy events have happened; how do family members treat each other?

Impact of the Sexual Assault or Abuse. After assessing the overall development level and the strength of the family ties, it is important to note the impact of the current situation on the child and family. In particular, note what words the child and family members use to describe what has happened; what emotional reaction does the family show in describing the event; what has the event made the family members feel like doing; what have they done?

General Therapeutic Techniques

The most important technique is to encourage the child to talk about the incident. If the child does not bring the subject up in the session, the counselor should tell the child that it is important to discuss it. This action tells the child it is all right to talk about the assault or abuse. Some children expect the counselor to bring it up. If the counselor fails to do so, the child may think one of two things: 1) that something must be wrong with him or what has happened or 2) that the counselor does not take the assault seriously.

The goal of counseling is to have the child and family come to grips psychologically with the assault or abuse. The counselor assists with the healing process by bearing the painful feelings with the child and demonstrating that the situation is something to be discussed and settled. The counselor brings it up gently ("Are you thinking much about the situation?"). Then the counselor takes the lead from the child. If the child denies that it is an issue, the counselor can then acknowledge this position ("Okay if you don't want to talk now - but I want to hear about it when it is troublesome or when you are having any dreams or thoughts about it."). If the child talks, the counselor encourages discussion.

Play Sessions

The use of play sessions as a technique to facilitate the counseling process is well known in clinical work with children. The play session involves the use of nonstressful techniques that decrease the anxiety children may feel in having to talk to you. This technique is aimed at gaining the attention, interest and trust of the child. There are important differences in distinguish a child from an adult when he or she is introduced to a professional for any type of counseling:

1. Generally, the child is brought to the play session. In a sense, the child is a reluctant consumer, at least for the first session. Always assess how the child has arrived at your office and how he or she feels about it.

2. The child is not always told the reason why he is going to see you. Adults may have misrepresented the situation to the child, the child may have been told he going to a place different from where they were taken, and this may result in additional stress for the child.

3. The child does not always sense there is a "problem" that must be discussed. The child may not feel any distress, the child may deny any problem, or the child may believe the problem lies with another person.

The setting for the use of age-related media to facilitate counseling is important in establishing a nonstressful atmosphere. If an office is to be used, an area should be designated for an informal, unstructured meeting. Play materials should be in full view. Sometimes toys are placed by age level, on a bookshelf, or they may be in a big toybox. The availability of play materials offers the child an opportunity to reduce stress and to utilize a natural expression through play, the activity the child knows best. If the counselor is making a home visit, toys may be taken in a case and used there. Depending on the goals of the session, the play session may be one of two types: structured or unstructured.

Structured. In a structured play session, the interviewer may focus play on specific issues by providing a certain set of toys for that setting. For example, if you wish to explore the child's thoughts and feelings surrounding a hospital experience, having a toy hospital would encourage access to that material through play.

Unstructured. In an unstructured or free play session, you provide a wide variety of toys for the child to choose.

Choice of Play Materials. Most interviewing rooms or offices should contain some of the following supplies, although it may be impractical or impossible for a practitioner to maintain a variety of equipment.

> Some creative art material, such as paper, crayons and paint
> Toys for aggressive fantasy play, such as guns, soldiers, cars or trucks.
> Action toys, such as an ambulance or rescue team with cars.
> Puppets, dolls or doll houses for depicting interaction and projection.
> Table games to be used for interaction with the interviewer, such as dominoes or cards to permit evasion of or relief from emotion laden activities.

Introducing Self. It is essential as in an interview, to establish credibility with the child. This involves telling the child who you are, why you want to talk to him or her and the reason that the play session may involve play toys. It is important to tell the child that you talk to children who have experienced what he or she has; sometimes telling the child that your work is to talk with children is sufficient. Then the child needs to be told that you want to hear "his or her side" of what happened in order to better understand the situation. The objectives in a play session are to: engage the child in activity, observe and initiate conversation when appropriate.

Age-Appropriate Toys. To facilitate the child's play and the interview, the counselor should understand what are "age-appropriate toys" for the different developmental stages: preschool, school-age and junior high.

Pre-School. The preschool child is easily engaged with such activities such as doll play, puppets, the use of play hospital or school and fantasy play. He or she may also draw pictures or tell stories to the counselor.

School Age. The grammar school-aged child may begin to be more verbal, but play materials still have a place in the child's life. Dolls or puppets may be selected, but action toys, art supplies and table games are often first choice. A deck of cards, dominoes and checkers become a counselor's major means of engaging the child.

Junior High. The junior high school aged child or early adolescent may opt for a straight interview, but again table games are often chosen. More complicated games, such as Scrabble, Clue or Monopoly are intriguing to the junior high schoolers.

PRE AND POST TEST
CHILD ABUSE

DIRECTIONS: Circle "T" if you think the statement is true. Circle "F" if you think the statement or any part of the statement is false.

T F 1. Ninety percent of abuses can be treated effectively.

T F 2. Less than one-third of the estimated child abuse cases reach the attention of a child protective agency.

T F 3. All parents have the potential for child abuse.

T F 4. The average age of an abusive parent is 26.

T F 5. Abusive parents generally love their children deeply.

T F 6. More violence toward children takes place in the family with six or more children.

T F 7. Usually an abusive parent "plays no favorites." Each child in the family is abused.

T F 8. The highest incidence of child abuse is found in middle class society.

T F 9. Abusive parents often need parenting themselves.

T F 10. Ninety percent of abusive parents are married.

T F 11. An abusive parent seldom feels sorrow or guilt for his actions.

T F 12. The most effective way to deal with an abusive parent is to imprison him/her.

T F 13. All fifty states require medical practitioners to report to authorities "suspected" cases of child abuse.

T F 14. In 1975, more than 200,000 children died from intentional abuse by adults.

T F 15. A child who is abused usually grows up to be an abusive parent.

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UNIT III

Legal Issues in CPS: Tribal and Federal

Prepared By:

Jim Zion,Esq.

TABLE OF CONTENTS

Course Outline 155

Training Outline 157

I. Legal Issues in Child Protective Services, Tribal Sovereignty, Jurisdiction, Codes and Procedures 159

- The Power to Make Laws 159
- The Authority of Professional Under White Mountain Apache Law 163
- Legal Rights of Children 195
- The Rights of Birth and Foster Parents 200
- When Serious or Continued Abuse Warrants Court Action 202
- Roles of the Various Disciplines 204
- Criminal and Civil Deposition of Child Abuse and Neglect Cases 206
- Less Intrusive Interventions to Protect Children 210

II. Legal Issues in Child Protective Services Federal Laws and Justice System 214

- Major Crimes Act 214
- The Rights of Children Under Federal Law 217
- Rights of Birth and Foster Parents 222
- Disciplines in Federal Court Proceedings 223
- Federal Laws and Procedures in Criminal and Civil Child Cases 224
- Less Intrusive Intervention 226

CHILD PROTECTIVE SERVICES TRAINING COURSE OUTLINE

UNIT III.1: Legal issues in CPS: Sovereignty, Jurisdiction, White Mountain Apache Tribal Law and Order Codes and Procedures

COURSE LENGTH: 6 HOURS

DESCRIPTION:

This course will provide trainees with a basic understanding of White Mountain Apache laws and procedures as applied to Child Protective Services issues, jurisdictional questions, and in addition will serve as a manual for criminal and civil disposition of child abuse and neglect cases.

COURSE OBJECTIVES:

1. To identify the manner from which the White Mountain Apache Tribe derives the power to enact its own laws
2. To identify the authority trainees have with respect to the White Mountain Apache Tribal Law and Order Code
3. To reference and apply White Mountain Apache Tribal Law and resolutions as they relate to the rights of children.
4. To reference and apply, using the White Mountain Apache Tribal Law and Order Code, laws as they relate to the rights of birth and foster parents.
5. To recognize when serious and/or continual abuse warrants use of the court's authority for the child's protection.
6. To identify various disciplines who participate in tribal court proceedings and their respective roles.
7. To define and apply White Mountain Apache Tribal Laws and procedures relating to criminal and/or civil disposition of child abuse and neglect cases.
8. To describe less-intrusive interventions that protect children while maintaining the integrity of the family.

KEY CONCEPTS:

Sovereignty, jurisdiction, Mandatory reporting, reporting laws and procedures, protective custody, juvenile court procedures, criminal court procedures, abandonment, child sexual abuse, child abuse and neglect, termination of parental rights, tribal juvenile judge, tribal chief judge, tribal prosecutor, BIA investigator

POSSIBLE DISCUSSION TOPICS:

1. Discussion of the White Mountain Apache Tribal Treaty, the White Mountain Apache Constitution and By-Laws and their implied authority
2. Discussion of the history, structure, and jurisdiction of the White Mountain Apache Law and Order Code as it applies to specific or implied rights of children, birth parents, and foster parents.
3. Participants will identify the various disciplines who participate in tribal court proceedings and their respective roles
4. Discussion of civil and criminal processes and procedures relating to criminal and/or civil disposition of child abuse and neglect cases.
5. Discussion involving less-intrusive approaches for interventions with child and family to protect and maintain, if possible, the integrity of the family unit.

MATERIALS:

White Mountain Apache Constitution and By-Laws
White Mountain Apache Tribal Juvenile Code
White Mountain Apache Tribal Criminal Code
PL 101-630 "Indian Child Protection and Family Violence Act"
PL 95-608 "Indian Child Welfare Act" and Amendments
PL 96-272 "Adoption Assistance and Child Welfare Act"
PL 93-638 "Indian Self-Determination and Education Act"
Indian Civil Rights Act
Tribal/Federal Coordination
Victims of Crimes Act

CHILD PROTECTIVE SERVICES TRAINING COURSE OUTLINE

UNIT III.2: Legal issues in CPS: Jurisdiction, Federal Laws, Federal Justice System

COURSE LENGTH:

DESCRIPTION:

This course will provide participants with a basic understanding of federal laws and procedures as they apply to Child Protective Services, jurisdictional issues and serve as a manual for criminal and civil disposition of child abuse and neglect cases that meet the standards of the Major Crimes Act.

COURSE OBJECTIVES:

1. To identify cases that should be referred to the federal system as required by the Federal Major Crimes Act.
2. To reference and apply, using federal statutes, laws as they relate to the rights of children.
3. To reference and apply, using federal statutes, laws as they relate to the rights of birth and foster parents.
4. To identify various disciplines who participate in federal court proceedings and their respective roles.
5. To define and apply federal laws and procedures relating to criminal and/or civil disposition of child abuse and neglect cases.
6. To describe less-intrusive interventions that protect children while maintaining the integrity of the family.

KEY CONCEPTS:

Federal jurisdiction, mandatory reporting, reporting laws and procedures, Federal Major Crimes Act, protective custody, criminal court proceedings, abandonment, child sexual abuse, child abuse and neglect, termination of parental rights, Federal Victim Witness Program, Federal Bureau of Investigation, United States Marshall, United States Attorney, Federal Magistrate, Federal Court, Federal Court Judge

POSSIBLE DISCUSSION TOPICS:

1. Discussion of the Federal Major Crimes Act and jurisdictional issues encountered when cases meet the standards of this Act.
2. Discussion of federal statutes relating to specific or implied rights of children, birth parents and foster parents.
3. Participants will identify the various disciplines who participate in federal court proceedings and their respective roles.
4. Discussion regarding the civil and criminal processes and procedures relating to criminal and/or civil disposition of child abuse and neglect cases.
5. Discussion involving the less-intrusive approaches for intervention with child and family to protect and maintain, if possible, the integrity of the family unit.

MATERIALS:

Federal Major Crimes Act
PL 101-630 "Indian Child Protection and Family Violence Act"
PL 95-608 "Indian Child Welfare Act" and Amendments
PL 96-272 "Adoption Assistance and Child Welfare Act"
PL 93-638 "Indian Self-Determination and Education Act"
Indian Civil Rights Act
Federal Victim/Witness Protection Act

NOHWII CHAGHASHE BAA DA GONTDZAA - PROTECTING OUR APACHE CHILDREN

UNIT III.1

LEGAL ISSUES IN CHILD PROTECTIVE SERVICES: SOVEREIGNTY, JURISDICTION, CODES AND PROCEDURES

of the

WHITE MOUNTAIN APACHE TRIBE

INSTRUCTIONAL GOALS: Professionals who provide protective services for children must understand the laws of White Mountain Apache Tribe which protect children, and the basis for those laws - the sovereignty and jurisdiction of the White Mountain Apache Tribe. This portion of Child Protective Services Training will provide information on:

1. The White Mountain Apache Tribe's power to make its own laws;
2. The authority of professionals under White Mountain Apache tribal statutes and codes;
3. The legal rights of children;
4. The legal rights of birth and foster parents;
5. The kinds of serious or continual abuse which require court action to protect children;
6. The people, agencies and resources for court proceedings to protect children, and their roles;
7. The criminal and civil procedures of White Mountain Apache law to address child abuse and neglect;
8. The concept of less-intrusive interventions to protect children, while maintaining the integrity of the family.

I.

THE POWER TO MAKE LAWS

§ 1.1 INDIAN POLICY BEFORE THE UNITED STATES BECAME A COUNTRY

European settlers in the Americas could not take Indian lands by force. America was too big; there were hundreds of Indian tribes; and there were too few Europeans to push Indians aside.

At the same time, modern international law developed, and it recognized Indians tribes as "nations" and "states." That means that international law recognizes the power of Indian tribes to possess their own lands, have their own governments, and make their own laws.

The Royal Proclamation of 1763, issued by the King of England, recognized the independence of Indian tribes, established a boundary for "Indian Country," where non-Indians could not go, and prohibited individuals and the colonies from dealing with Indian tribes. The British Government reserved the right to deal with Indian tribes and make treaties with them.

That was the original basis for tribal independence, government and the power to make law.

§ 1.2 INDIAN TRIBES UNDER THE UNITED STATES CONSTITUTION

Indians are mentioned three places in the United States Constitution:

* Congress has the power to "regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes." Art. I, § 8, cl. 3 (the "Indian Commerce Clause")

* The Treaty Clause (art. II, § 2, cl. 2) gives the Federal Government the exclusive power to enter into treaties with Indians.

* "Indians not taxed" are excluded from the census count of population to collect taxes and decide the number of State representatives in Congress. Art. I, § 2, cl. 3; amendment XIV, § 2.

The Indian Commerce Clause, the Treaty Clause, and the "Indians not taxed" provisions all show that Indian tribes are independent of the United States and the States, and that they have the right to govern themselves and make laws to protect their lands and peoples. That is particularly the case for children, who are the most important resource Indians have.

§ 1.3 THE NATURE OF INDIAN TRIBES

In 1831, the United States Supreme Court ruled that an Indian tribe is not a "foreign state" under the Constitution. CHEROKEE NATION v. GEORGIA, 30 U.S. (5 Pet.) 1 (1831). The case defined tribes as "domestic dependent nations" - while they are not "foreign," they are "nations." The concept of a nation assumes that it can make its own laws and maintain its own form of government. In 1832, the Court again considered the question of the nature of Indian tribes under the Indian Commerce Clause of the Constitution, which gives Congress the power to "regulate Commerce ... with the Indian Tribes." Looking at the treaty with the Cherokee Nation, the Court said that its relation with the United States "was that of a nation claiming and receiving the protection of one more powerful: not that of individuals to the laws of a master." The "treaties and laws of the United States contemplate the Indian territory as completely separated from that of the states; and provide that all intercourse with them shall be carried on exclusively by the government of the union [i.e. the Federal Government]." "Indian nations had always been considered as distinct, independent political communities, retaining their original natural rights, as the undisputed possessors of the soil, from time immemorial...." WORCESTER v. GEORGIA, 31 U.S. (6 Pet.) 515 (1832).

Whether or not a given Indian tribe has a treaty with the United States, these legal principles are still the fundamental law of the United States.

§ 1.4 INHERENT OR FUNDAMENTAL POWERS OF INDIAN TRIBES

American Indian affairs law, the law which establishes the relationships among Indian tribes, the United States and the States, recognizes that Indian tribes, as "dependent domestic nations," have certain powers in their own right. That is, the idea of a "nation" carries with it certain powers. One of the most important points about tribal power is that it comes from being a nation and NOT from the Government of the United States.

It is a power to make laws for self-government and the protection the tribe and its people. It is called "inherent" or "fundamental" power, and it includes:

1. THE POWER TO ESTABLISH A FORM OF GOVERNMENT. An Indian tribe can organize as it wishes, and adopt whatever form of government it wants.

2. THE POWER TO DETERMINE MEMBERSHIP. Indian tribes can decide who may be members of the tribe. They can decide who is an "Indian," and they can choose to adopt non-members or even non-Indians. Many tribes choose to require a certain Indian blood degree ("blood quantum") for membership, or use old tribal rolls as a base - allowing membership because of descent from a tribal

member. This is a very important power for child welfare programs, because tribal powers over children are stronger when the child is a tribal member. Membership qualifications and enrollment are important to Indian children. Many federal Indian programs require membership in a tribe which is "recognized" by the United States. Tribal membership is a political right and not a racial category. Special laws for Indians, because they are "Indians," are permissible in the United States because they are based on the political existence of Indian tribes, and not the fact that a race of "Indians" is recognized by most people.

3. POLICE POWER. This means the power to pass laws to protect the tribe, it lands, its people and the public in general. That includes laws to protect the public health, welfare and safety. It include laws to protect tribal lands, property and resources. A law can be criminal, to punish offenders for harm done to others. A law can be civil, to protect people from harm done by others, give a remedy to pay for past injury, or prevent future injury. One of the most important police powers is the power to pass laws to protect families (domestic relations law), punish children who commit offenses (juvenile codes), protect children from harm done by others (dependent, neglect and abuse laws), or provide for education (particularly laws which provide for education which is appropriate to the tribal culture). Police power also recognizes the fact that tribal members, particularly children, are the most important resource an Indian tribe has.

4. POWER TO ADMINISTER JUSTICE. One of the most important functions of a government is to settle disputes among people or with the government. Most modern governments have court systems where judges decide criminal cases or civil disputes. There are 170 tribal courts in the United States, most of which are based on state models. However, in 1883, 1899, 1978 and 1990, the United States Supreme Court upheld the validity of Indian customary law - Indian common law. That means that tribes can choose to establish modern justice systems, keep or return to traditional methods, or apply their own traditional law. Tribal courts can use traditional Indian values as law, including values which uphold the dignity of children and the special place they have in an Indian tribe. This power is the basis for tribal laws to protect children.

5. POWER TO EXCLUDE PERSONS FROM TRIBAL INDIAN COUNTRY. Indian tribes have the right to exclusive use of their own lands, to forbid trespassing, and to deal with offenders by excluding them from the tribal territory - Indian Country. "Indian country" includes reservation lands, Indian allotments, land held by or for an Indian tribe (trust land) and Indian settlements on or off a reservation ("dependent Indian communities." 18 U.S.C. § 1151 (1948). This power is important to deal with persons who cause harm to children (e.g. nonmember abusers, child molesters or drug peddlers) where the tribe cannot punish under criminal law.

6. POWER TO CHARTER BUSINESS AND OTHER ORGANIZATIONS. Tribes can establish public or private organizations to promote tribal economic development, business or other enterprises. This also gives a tribe the power to charter, incorporate, license or regulate programs for children and families.

7. SOVEREIGN IMMUNITY. One of the basic powers of any government is to decide when it will permit someone to sue the government or one of its officials. Tribes have the power to allow or prohibit suits against it or its officers, establish systems to present claims against the tribe, or waive sovereign immunity in tribal, state or federal court. Many child welfare codes have provisions to protect child welfare workers from suit when they carry out their duties; many protect persons who deal with children (e.g. doctors, teachers and social workers) but who are not tribal employees.

§ 1.5 THE INDIAN REORGANIZATION ACT OF 1934

Congress recognized that tribal governments were unable to fully use their powers of self-government because they powers were not defined. That is why Congress passed the INDIAN REORGANIZATION ACT OF 1934 ("IRA") (25 U.S.C. §§ 461-479). Section 16 of the Act (25 U.S.C. § 476) gives Indian tribes the right to organize and adopt a constitution and bylaws. It gives tribes the power to employ lawyers, prevent the loss of tribal lands and assets, negotiate with other governments (including federal, state and local governments), and know the appropriation estimates for the tribe prior to sending budget proposals to the Office of Management and Budget and the Congress. Most importantly, 25 U.S.C. § 476 respects "all powers vested in any Indian tribe." When the IRA became law, the Commissioner of Indian Affairs requested a legal opinion on what those "vested" powers were. The opinion, written by Solicitor Nathan R. Margold, sets out existing tribal powers in detail. "Powers of Indian Tribes," 55 INTERIOR DECISIONS 14 (October 25, 1934). Among them are the powers to pass domestic relations laws, establish criminal codes and provide for justice systems.

§ 1.6 THE INDIAN COUNTRY STATUTE OF 1948

One of the most important powers of an Indian tribe is to control what happens within its territorial jurisdiction. Many people think that a tribe's only territory is its "reservation." A reservation may be created by treaty, presidential executive order or act of Congress. In 1948, Congress passed a law which defines tribal "Indian country." 18 U.S.C. § 1151. It includes "(a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same." Many tribes adopted this definition for a territorial jurisdiction statute. The definition shows that tribes can control activities within a reservation, including private lands and rights-of-way, within "dependent Indian communities within or without the reservation, and on all tribal allotments and lands.

§ 1.7 THE CONSTITUTION AND BYLAWS OF THE WHITE MOUNTAIN APACHE TRIBE OF THE FORT APACHE INDIAN RESERVATION IN ARIZONA OF JUNE 30, 1958

The White Mountain Apache Tribe is an "IRA" tribe, organized under § 16 of the Indian Reorganization Act of 1934. It has a constitution and bylaws under the IRA, with all the powers provided by § 16, including "all powers vested in" the tribe (the general powers of Indian tribes under federal Indian affairs law). The original constitution was amended in 1958, and an Assistant Secretary of the Interior approved the amended constitution and bylaws on May 29, 1958. It became law on June 30, 1958.

Article V of the Constitution and Bylaws sets out the powers of the White Mountain Apache Tribe. Article V, § 1 states that "[i]n addition to all the powers vested in the White Mountain Apache Tribal Council by existing law," it shall have the following powers:

1. Represent the tribe, act in all matters that concern the welfare of the tribe, and make decisions which are not inconsistent with or contrary to the Constitution and Bylaws, or federal Indian statutes;

2. Negotiate, make and perform contracts and agreements with any person, association, or corporation, with any municipality or any county, or with the State of Arizona or the United States, including agreements with the State of Arizona to perform public services;

3. Advise the Secretary of the Interior on Fort Apache Indian Reservation activities, and on appropriation estimates and federal projects for the benefit of the tribe before they are submitted to the Bureau of the Budget (now O.M.B.) and to Congress;

4. Employ legal counsel (attorneys), whose choice and fees are subject to approval of the Secretary of the Interior;

5. Veto the sale, disposition, lease or encumbrance of tribal lands, interests in lands, funds or assets;

6. Protect and preserve the wildlife, natural resources and water rights of the tribe, including the regulation of hunting and fishing;

7. Cultivate Indian arts, crafts and cultures;

8. Regulate the uses and disposition of tribal property;

9. Manage the economic affairs and enterprises of the tribe, including tribal lands, timber, sawmills, flour mills, community stores, and any other tribal activities;

10. Accept grants or donations from any person, State or the United States;

11. Appropriate tribal funds for tribal purposes and expend those funds in accordance with an annual budget approved by the Secretary of the Interior;

12. Borrow money from any source and pledge or assign chattels or future tribal income as security, subject to the approval of the Secretary of the Interior;

13. Provide for the assignment, use or transfer of tribal lands within the reservation;

14. Enact ordinances, subject to the approval of the Secretary of the Interior, covering the granting of both surface and subsurface leases;

15. Levy and collect taxes and impose license fees upon members and non-members doing business within the reservation, subject to the approval of the Secretary of the Interior;

16. Enact ordinances to provide for the adoption of minor children of members of the tribe, subject to the approval of the Secretary of the Interior, with all adoptions in accordance with State laws to be recognized as valid by the Tribal Council, and to provide for child welfare and placement services.

17. Enact ordinances establishing and governing tribal courts and law enforcement, regulating domestic relations of members of the tribe (with all marriages and divorces to be in accordance with State law), providing for the appointment of guardians for minors and mental incompetents, regulating the inheritance of non-restricted real and personal property of members, and providing for the removal or exclusion from the reservation of any non-member of the tribe whose presence may be injurious to the people of the reservation; with all ordinances subject to the approval of the Secretary of the Interior;

18. Enact ordinances governing the activities of voluntary associations consisting of members of the tribe organized for purposes of cooperation or other purposes;

19. Regulate council procedures and appoint committees, commissions, boards, tribal officials and employees, and regulate subordinate organizations for economic and other purposes;

20. Exercise other powers as may be delegated to the Council by members of the tribe, by the Secretary of the Interior, or any other official or agency of the State or Federal Government; and

21. The enumeration of powers in this section of the Constitution and Bylaws cannot be read to limit the powers of the White Mountain Apache Tribe.

II.

THE AUTHORITY OF PROFESSIONALS UNDER WHITE MOUNTAIN APACHE LAW

§ 2.1 THE POWER TO GIVE OR REGULATE AUTHORITY

As shown in section I, the White Mountain Apache Tribe has a great deal of authority to make laws to protect children, either as members or in general. The power to protect children includes the power to give responsibility and authority to tribal officials and employees and professionals who work within White Mountain Apache territorial jurisdiction.

§ 2.2 TRIBAL OFFICIALS AND EMPLOYEES IN GENERAL

The White Mountain Apache Tribe has the exclusive authority to create offices or employ employees. It can define their duties and state what they can or cannot do. The powers of a tribal official or employee can be found in tribal ordinances, personnel policies, plans of operation, grant or contract documents, job descriptions, protocols, or other documents which state what a tribal official, employee or agent may or may not do.

§ 2.3 FEDERAL OFFICIALS IN GENERAL

While there are legal questions about how far a tribe can go to regulate the activities of federal officials, many tribal codes, federal agency regulations and directives require federal officials to give their cooperation to carry out tribal laws and court orders. The duties and discretion of federal officials are described in federal statutes (the UNITED STATES CODE), federal regulations (THE CODE OF FEDERAL REGULATIONS), grants or contracts with the tribe, and sometimes in federal agency handbooks or manuals.

a. WHITE MOUNTAIN APACHE CONSTITUTION AND BYLAWS

When the Assistant Secretary of the Interior approved the constitution and bylaws on May 29, 1958, his approval order contained this paragraph: "All officers and employees of the Interior Department are ordered to abide by the provisions of the said revised Constitution and Bylaws."

b. OTHER APPROVALS

Given the fact that the Secretary of the Interior must approve all White Mountain Apache tribal ordinances and laws, often approval orders or other agency memoranda require cooperation in enforcing them. Most federal agencies have a general policy to

§ 2.4 STATE OFFICIALS AND OTHERS IN GENERAL

As a general principle of Indian affairs law, the State of Arizona has no or very limited jurisdiction within the territorial jurisdiction of the White Mountain Apache Tribe. At this point (October 1992), the extent to which tribes can regulate the activities of Arizona officials is rapidly changing. However, the State of Arizona cannot make or enforce any law which interferes with the laws of the White Mountain Apache Tribe, and state agencies have been held to be subject to tribal court jurisdiction.

The tribe has the general power to pass laws to regulate the activities of persons as they come into contact with children. That can include laws to require reports of child abuse or neglect, curfew laws, laws prohibiting the sale of alcohol or cigarettes to children, truancy laws, etc.

§ 2.5 KINDS OF OFFICIAL POWERS

When a law establishes the powers and authority of an official or employee, there are often two kinds which it provides. There are MANDATORY or MINISTERIAL powers, authority or functions. These are things which the law requires the official to do. They are usually stated using words such as "shall," "will" or "must." They are requirements. Often, they are written to say that when an event happens, a named official must do a stated act. A good example is child abuse reporting statutes which require that a doctor, social worker, teacher, etc. must report suspected child abuse. A person who neglects or refuses to obey a mandatory law can often be punished. There are DISCRETIONARY powers as well. These are things which an official can do or not do. The law usually uses the word "may" to tell us that there is a discretionary power. If a law says that an official "may" investigate possible child abuse under certain circumstances, that is an example of a discretionary power. However, discretion is not absolute. It must be used responsibly and not abused. If it is clear that the circumstances exist for an official to investigate child abuse, although the official "may" investigate, under the circumstances the official must investigate. If the law gives an official a choice, and there is more than one option to choose from, the choice of any reasonable option is permissible. If the facts give the official only one choice, or only one is reasonable, then the official must do it.

§ 2.6 THE WHITE MOUNTAIN APACHE CRIMINAL CODE (1974)

The White Mountain Apache Criminal Code of 1974, as amended, has many duties for public officials which are a part of their normal work. There are some duties or responsibilities which generally apply to tribal officials and others, and the Code specifies particular roles for professionals in several sections.

a. GENERAL DUTIES OR RESPONSIBILITIES

1. DISOBEDIENCE TO A COURT ORDER - § 2.23

Any person who wilfully disobeys a court order, including a subpoena, warrant or command, is guilty of an offense which is punishable by a jail term of up to 50 days, a fine of up to $50, or both.

2. DISPOSING OF PROPERTY OF AN ESTATE - § 2.25

Sometimes officials are appointed as guardians for children. It is a crime to use, transfer or dispose of guardianship property without authority and before a determination that the property can be used, transferred or disposed of, under penalty of up to 90 days in jail, a fine of up to $90, or both.

3. PERJURY - § 2.45

Any person, including officials, who knowingly makes a false statement under oath, or makes another do so (e.g. in affidavits or court testimony) may be punished by a jail term of up to 90 days, a fine of up to $90, or both.

b. REPORTING CHILD ABUSE AND NEGLECT

Chaper Four of the Criminal Code has the "Comprehensive Sex Crimes Act." It also has a provision to require people who come into contact with children to report signs of abuse or neglect. This modern law requires professionals and members of the general public to report ANY situation which shows that children have been victims of abuse or neglect.

1. WHO MUST REPORT - § 4.12

The reporting law covers any (1) physician, (2) hospital intern or resident, (3) surgeon, (4) dentist, (5) osteopath, (6) chiropractor, (7) podiatrist, (8) county medical examiner, (9) nurse, (10) psychologist, (11) school personnel, (12) social worker, (13) peace officer, (14) parent counselor, (15) clergyman or priest, or (16) any other person having responsibility for the care of treatment or children to report. § 4.12A. All other persons who have reasonable grounds to believe that a minor is or haw been a victim of abuse or neclect "may" report that information. § 4.12B.

2. WHEN REPORTS MUST BE MADE

- WHEN OBSERVERVATION OR EXAMINATION DISCLOSES REASONABLE GROUNDS TO BELIEVE --
    - A MINOR IS A VICTIM OF--
        - Injury
        - Sexual abuse (under § 4.4)
        - Sexual conduct with a minor (§ 4.5)
        - Sexual assault (§ 4.6)
        - Molestation of a child (§ 4.9)
        - Commercial sexual exploitation of a minor (§ 4.13)
        - Non-accidental abuse or physical neglect (not explained by available medical history as accidental)
        - The denial or deprivation of necessary medical treatment or surgical care ("reasonable grounds to believe")

          OR

        - The denial of nourishment with the intent to cause or allow death of an infant ("reasonable grounds to believe")
- MUST IMMEDIATELY REPORT OR CAUSE REPORTS TO BE MADE TO:
    - a peace officer
    - child protective services of the tribal social services.

3. CONTENTS OF REPORTS

Other than sexual conduct by minors who are ages 14 through 17 who appear to be engaging in consentual conduct, the reports must be made "forthwith" by TELEPHONE or IN PERSON, followed by a WRITTEN REPORT within 72 hours. The report must state:

(1) Names and addresses of the minor, his parents or custodian (if known);

(2) The minor's age and the nature of extent of injuries or neglect (including evidence of previous injuries or physical neglect); and

(3) Any other information that the person making the report believes may help establish the cause of the injury or physical neglect.

Note that the information appears to be limited to physical injury or neglect.

4. IMMUNITY FROM LIABILITY

Treatment professionals who report, release records, participate in an investigation or proceeding resulting from information authorized or required under § 4.12 are immune from civil or criminal liability UNLESS the person acted with malice or has been charged with abusing or neglecting the child or children in question. (§ 4.12F) While this is immunity with a qualification (i.e. malicious acts and crimes against the child), it is almost absolute.

c. POWERS AND DUTIES OF PHYSICIANS, MENTAL HEALTH PROFESSIONALS & NURSES

1. CONTAGIOUS DISEASES - § 2.28

Where the court has "reasonable cause to believe" that a person has a venereal disease, active tuberculosis or some other contagious disease, and that person "willfully exposes another to the disease" ("in a place other than a medical facility"), the court can order the person to submit to medical treatment which is prescribed by competent medical authority. A "competent medical authority" is a physician or other person permitted to treat the particular disease, and the statute allows treatment without the person's consent.

2. EXCEPTIONS TO SEX CRIMES INVOLVING CHILDREN - § 4.8

* LAWFUL MEDICAL PRACTICE

It is a defense to charges of the crimes of sexual abuse (§ 4.4) and sexual conduct with a minor (§ 4.5) that "the act was done in furtherance of lawful medical practice." This still prohibits sexual touching or conduct which is considered unethical or irresponsible by the medical profession.

* EMERGENCY CARE

A physician, registered nurse, person acting under their direction, or other person who gives emergency care at the scene of an emergency, and who is using recognized and lawful forms of treatment under the circumstances has a defense to charges of indecent exposure (§ 4.2), sexual abuse (§ 4.4), sexual conduct with a minor (§ 4.5), or sexual assault (§ 4.6). This is limited to situations involving consent by the victim or permission by a child's parents. It allows PROPER medical procedures which may involve touching.

3. DIAGNOSIS OF CHILD ABUSE - § 4.10A(1)

The definition of "abuse" for criminal statutes against sex crimes involving children requires a diagnosis by a medical doctor or psychologist.

4. USE OF REASONABLE PHYSICAL FORCE ON CHILDREN § 4.11

Persons who are "entrusted with the care and supervision of a minor" may "use reasonable and appropriate physical force upon the minor ... to the extent reasonably necessary and appropriate to maintain discipline, self defense, or to protect the child from injuring itself of others." This is what is called a "qualified" immunity to use force on children when they are under the care of a professional.

5. REPORTS OF INJURIES, NEGLECT, ETC. - § 4.12

Physicians, hospital interns or residents, surgeons, dentists, osteopaths, chiropractors, podiatrists, county medical examiners, nurses, psychologists and those who are responsible for the care or treatment or children are required to report, as above.

6. MEDICAL RECORDS - § 4.12

A person who has custody or control (e.g. a facility administrator, records technicial, supervisor with authority) of medical records of a minor for whom a report is required or authorized (under § 4.12) is REQUIRED or AUTHORIZED to make the records or copies of them available to a PEACE OFFICER or CHILD PROTECTIVE SERVICES WORKER doing an investigation of neglect or abuse. The peace officer or child protective services worker must make a written request for the records and sign it. Any records which are disclosed are confidential and may be used only for judicial or administrative proceedings resulting from a report required by § 4.12. This is much the same procedure as is required by the federal Privacy Act: There must be an official "need to know" the information, it must be requested in writing, and there are limitations on use of the information.

7. MEDICAL EXAMINATIONS AND PHOTOGRAPHS - § 4.12

Section 4.12E generally allows medical examinations of children who may be abused: "Medical examinations including, but not limited to, radiological examinations of the involved child may be performed." Persons who can receive reports (i.e. peace officers or child protective services workers) can take photographs of the child "and the vicinity involved" or have them taken. Photography should be a standard part of medical examination where it would be of use.

8. PSYCHIATRIC RECORDS

Under § 4.12H, a custodian of psychiatric records must notify the attending psychiatrist [but not psychologist or mental health worker?], who can first delete (1) "Personal information about individuals other than the patient," or (2) "Information regarding specific diagnosis or treatment of a psychiatric condition," upon a certification in writing "that release of the information would be detrimental to the patient's health or treatment." This is designed to protect the privacy of others (given the fact psychiatrists keep records on others involved with the patient) and prevent harmful disclosures.

9. AVAILABILITY OF SENSITIVE PSYCHIATRIC INFORMATION

If any information is withheld under § 4.12H, § 4.12I allows a peace officer or child protective services worker to get a court order to require that part or all of the record, any any part of it which is relevant to the reported abuse or neglect, be made available for an investigation.

10. PHYSICIAN-PATIENT, SOCIAL WORK & NURSING PRIVILEGE

Under § 4.12F, the rule of evidence which allows a patient of client of a physician, social worker or nurse to keep information from being disclosed does NOT apply. That can include situations where parents attempt to use their legal rights over information about a child to block disclosure; they cannot. This section also provides an exception to ethical codes which would otherwise prevent the information from being disclosed.

d. CHILD PROTECTIVE SERVICES PROFESSIONALS

The Code reqires cooperation with child protective service professionals of the White Mountain Apache Tribal Social Services agency for investigations. An authorized child protective services professional may:

1. RECEIVE REPORTS OF CHILD ABUSE OR NEGLECT - § 4.12

Section 12A lists (1) the persons who must report to child protective services and (2) the kinds of abuse or neglect of children that must be reported (which includes most injuries or neglect of children). The reports must be made "immediately," i.e. soon enough after they are discovered to make reporting and investigation meaningful. The reporting requirement is MANDATORY. Section 4.12C says that reports must be made by telephone or in person "forthwith," with a written report within 72 hours. "Forthwith," like "immediately," attempts to tell people who are dealing with children the importance of acting on-the-spot. It is like the slang term "pronto!" or "right now!" The ability of reporters under this section depends upon the availability of police or social services personnel to act on a report.

2. GET ACCESS TO RECORDS OR COPIES OF THEM - § 4.12

Where a child protective services professional makes a written request for the records described in § 4.12, and signs the request, the custodian or person having "control" (i.e. as part of official duties) MUST make them available. Those records are confidential, which means that the CPS professional MUST keep information in the records confidential. That means that information cannot be released unless it is to another professional who has a duty to act on the information on a "need-to-know" basis.

There are special rules for psychiatric records. A psychiatrist can, under § 4.12H, delete personal information about someone other than the patient or withhold diagnosis or treatment information if he or she certifies that to release it would hurt the patient's health or treatment. However, under § 4.12I, a CPS professional can get a court order to get access to the record.

3. RECEIVE TELEPHONE REPORTS FROM POLICE

When anyone makes a report to a peace officer (i.e. tribal, federal or state police), he or she must IMMEDIATELY notify Tribal Social Services and provide its personnel the information. In turn, Tribal Social Services must notify the White Mountain Apache Tribal Police Department when receiving telephonic or in-person reports under § 4.12.

4. TAKE PHOTOS OR HAVE THEM TAKEN

A CPS professional has the power to take photographs of the child and the vicinity involved (e.g. home, place of accident or mistreatment, etc.), or to have others take them. Photographic evidence is very important, and it should not overlooked. Even when taken with an inexpensive camera, photographs are important for the investigation and proof of child abuse and neglect. They can be important for use to confront parents who show denial. Note: Sometimes bruises do not photograph well until a few days after an injury. A camera (including videocameras) is an important tool for all law enforcement professionals.

d. LAW ENFORCEMENT OR PEACE OFFICERS

1. INTERFERING WITH A POLICE OFFICER - § 2.39

It is a crime to willfully prevent or attempt to prevent a police officer from making an arrest or "otherwise discharging his official duty." The second can include carrying out duties to investigate child abuse or neglect. However, it is not a crime unless the person (1) creates a substantial risk of bodily harm to the officer or others, or (2) uses resistence which justifies or requires "substantial force" to overcome. Item (2) refers to the legal privilege to use force which is reasonable for self-protection or for arrest. The amount of force used by an officer must be related to the threat or force used against him or her.

2. REFUSING TO AID AN OFFICER WITH AN ARREST - § 2.51

It is a crime to wilfully refuse to help a peace officer to (1) make a lawful arrest, or (2) take an arrested person to the nearest place of confinement when such assistance is reasonably requested. This law requires bystanders to help make arrests, and it is a way of prohibiting the arrested person's friends or relatives from interfering with an arrest. An officer has the right to require them to help.

3. RECEIPT OF REPORTS AND INVESTIGATION - § 4.12

Peace officers have the same rights to receive reports of child abuse an neglect, get investigative records, and investigate as are indicated for child protective services workers, above. The fact that both peace officers and CPS personnel are mentioned together in § 4.12 shows that the law requires them to cooperate and work together. Peace officers have important duties to detect and investigate crimes. CPS personnel have important duties to use the law of child abuse and neglect for civil actions to protect children. The law enforcement functions of both are essentially the same, with differences in duties to use investigative information.

4. DETAINING SUSPECTS OF SEX CRIMES - § 4.18

Where a peace officer is investigating a sex crime which is punishable by up to one year in jail, the officer can make a written application (under oath or affirmation) to a tribal judge for an order to temporarily detain someone to get evidence of "identifying physical characteristics." The application must identify or "particularly describe" the person, who must reside in or be found within the territorial jurisdiction of the court. The order can require the person to be where and when the court indicates for "obtaining the identifying physical characteristic evidence." The order must be based upon (1) reasonable cause to believe a sex crime has been committed, (2) the person who will be the subject of the order has evidence of "identifying physical characteristics" which can help identify the person who committed the offense, and (3) the evidence cannot be obtained by the police, BIA police, FBI or Whiteriver Police Department. This section allows police to get a court order for (1) identification through a lineup, (2) photographs, (3) forensic and medical evidence (e.g. semin or public hair tests), or (4) any other kind of examination to get evidence which will identify a sex offender.

e. CLERGY, PRIESTS & MEDICINE PEOPLE - § 4.12

1. REPORTS

The clergy (i.e. ministers of churches) and priests have the same obligation as others under § 4.12A to report child abuse or neglect.

2. EXCEPTION FOR CONFIDENTIAL COMMUNICATIONS & CONFESSIONS

There is an exception to reporting for communications which the law traditionally protects to assure religious freedom. Under § 4.12B, a "clergyman, priest, traditional medicine man or medicine woman" who receives a confidential communication or confession IN THAT ROLE and "in the course of the discipline ejoined by the church" may withhold reporting the communication IF the religious person "determines that it is reasonable and necessary within the concepts of the religion." This exception does not apply to personal observations made of the minor involved.

This is a difficult exception, because it requires people to decide (1) who is a religious person, (2) when a communication is "confidential" or a "confession," and (3) if the information is protected by religious freedom. The definition of "medicine man" and "medicine woman" is a tribal one. Note, however, that it still requires religious people to report on the conditions of children, as with others under the reporting law.

3. TESTIMONY AND OBSERVING CHILDREN

There is another exception, in § 4.12G, about having religious leaders testify in court. A clergyman, priest, traditional medicine man or medicine woman cannot be questioned as a witness about any confession made to him or her in their religious role. However, they must still make reports of child abuse or neglect, as required in § 4.12A.

f. TEACHERS AND SCHOOL PERSONNEL

1. REPORTING - § 4.12

Teachers and school personnel, including nurses, teacher's aides, counselors and others are bound by the abuse and neglect reporting requirements.

2. USE OF REASONABLE FORCE - § 4.11

Teachers and school personnel who are "entrusted with the care and supervision of a minor ... may use reasonable appropriate physical force ... to the extent reasonably necessary and appropriate to maintain discipline, self defense, or to protect the child from injuring itself or others." The keys to this qualified privilege are (1) reasonableness or necessity of the amount of force used, (2) for the limited purposes. Any kind of force must be appropriate for the child's age, size, etc. and the amount must be limited to the need to use it. While teachers have been given a fair amount of leeway to use force in the past, the attitude toward its use is changing. Teachers and school officials should carefully consider the attitudes of their communities before using physical force or restraints on children.

§ 2.7 WHITE MOUNTAIN APACHE JUVENILE CODE (1974)

a. GENERAL PURPOSES

The Juvenile Code is designed to deal with children who are neglected, in need of supervision or delinquent. It also provides for the termination of parental rights and adoptions. Some of the roles and responsibilities of members of the child protective services community are set out in the Code. "Neglect" includes (1) abandonment, (2) being without proper parental care or control, or subsistence, education, medical or other care or control necessary for well-being because of parental fault or habits, or (3) being without parental or custodial care due to their inability to care for the child because of incarceration, hospitalization, or physical or mental incapacity. A "child in need of supervision" is one who (1) is habitually truant from school, (2) habitually disobeys the reasonable and lawful demands of parents or custodians, (3) has committed an offense which is not criminal or is applicable only to children, or (4) due to any of the prior items, is in need of care of rehabilitation. A "delinquent" is a child who (1) has committed an act which would be punishable as an offense under White Mountain Apache or Arizona law when committed by an adult, and (2) is in need of care or rehabilitation.

b. REPORTING

The reporting sections of the Juvenile Code are substantially the same as those found in the Criminal Code (discussed above). Section 11.1 establishes the duty to report injury or neglect to children and the form of report; § 11.2 provides for immediate reporting of telephonic and in-person reports to the tribal police and child welfare agencies. § 11.3 provides for medical examinations and photographs; § 11.4 provides for immunity from liability for reporting; and, § 11.5 provides a civil penalty of $300 to $750 for failure to report. Note that this is a CIVIL penalty, which can be assessed against tribal members, Indians or non-Indians.

c. CHILD PROTECTIVE SERVICES OFFICIALS

1. PETITIONS - § 3.2

Any person "who has knowledge of the facts alleged" in a Juvenile Court proceeding "and believes them to be true" may sign a petition to commence an action involving a child. The same applies to petitions to revoke a child's probation.

2. PREDISPOSITION STUDIES AND REPORTS - § 6.2

When a petition involving a child is filed, the court must get a predisposition study of the child, his family, environment "and other matters relevant to the disposition of the case." The study and report must be made by the Youth Counsellor (discussed below) OR a child welfare agency.

3. PETITION TO TERMINATE PARENTAL RIGHTS - § 8.3

A "person who has the care" of a child or an "officer of the Bureau of Indian Affairs Office of Social Services" may petition to terminate parental rights. A CPS official can act where the agency "has the care of" a child under prior court order. A tribal social services agency can be an "officer of the BIA Office of Social Services" under an Indian Self-Determination and Education Assistance Act of 1975 ("P.L. 638") grant or contact.

4. NOTICE OF ADOPTION HEARING - § 9.5

Where a CPS agency conducts an investigation on an adoption (§ 9.8), the agency must be notified of the termination hearing under § 9.5A(3).

5. CONSENT TO ADOPTION - § 9.6

A public or private child welfare agency which has authority to consent to the adoption of a child (usually due to a placement following a termination of parental rights) has the power to consent to an adoption under § 9.6A(4).

6. INVESTIGATION OF ADOPTION PETITION - § 9.8

The court may order the Youth Counselor (below), an officer of a federal, State, or Tribal Placement Agency "or other competent person to conduct an investigation pertinent to the adoption." This section indicates the contents of the report.

d. YOUTH COUNSELOR

1. THE OFFICE - § 2.2

The Juvenile Code provides for a Youth Counselor, who is appointed by the Chief Judge of the Trial Court, and who has the powers to:

(1) Receive and "examine" complaints a child is neglected, in need of supervision or delinquent;

(2) Refer cases to private or public agencies where their assistance is needed or desirable;

(3) Supervise and assist a child place on probation or put under his supervision by the court; and

(4) Take a child into custody and place the child "when he (the Youth Counselor) "has reasonable cause to believe that the child has violated the conditions of probation or that he may flee from the jurisdiction of the Juvenile Court."

2. PRELIMINARY INQUIRY ON COMPLAINTS - § 3.1

The Youth Consellor [sic.] must receive complaints of neglect, delinquency or need of supervision, and must conduct a preliminary inquiry to determine whether the best interests of the child or Tribe require that a petition be filed. The counselor may recommend the filing of a petition, which must have the signature of the "complainant."

3. PREDISPOSITION STUDIES - § 6.2

Following the filing of a petition, the court must order a predisposition study and report on the child, his family, environment and "other matters relevant to the disposition of the case." It will be made by the Youth Counselor OR a child welfare agency.

4. ADVICE OF RIGHTS - § 6.3

Parties in juvenile proceedings must be advised of their rights when they first appear before the Youth Counselor and before the court. They must also be informed of the specific allegations of the complaint and have an opportunity to admit or deny them.

5. SUSPENSION OF PROCEEDINGS - § 6.5

The court or counsel for a child may move to suspend court proceedings and continue the child under supervision in his or her own home "under such terms and conditions as recommended by the Youth Counsellor and agreed to by the parties affected."

Before the end of a consent decree under this section, if (1) a new delinquency or need of supervision petition is filed, or (2) the Youth Counsellor reports that the child has filed to abide by the "express terms and conditions of the decree," the original petition can be reinstated by the court and the child "may be held accountable" as if there never was a consent decree.

6. INVESTIGATION OF AN ADOPTION PETITION - § 9.8

The court may order the Youth Counselor to investigate an adoption petition. This section indicates the contents of an investigation report.

e. GUARDIAN AD LITEM - § 7.9

An old procedure to protect children before a court is the guardian ad litem. The court may appoint a guardian for any child who is a party to a proceeding, if the child does not have a parent, guardian or custodian, or if the child's natural or adoptive parent "is not in a position to exercise effective guardianship." A party to a proceeding or his representative, or the employee of an agency which is a party cannot be a guardian. If a public or private agency or person has or may have custody of neglected or delinquent children or children in need of supervision cannot be appointed as a guardian.

f. PHYSICIANS, PSYCHIATRISTS AND PSYCHOLOGISTS - § 6.2

The primary role of medical and psychological professionals under the Juvenile Code is to carry out court orders, under § 6.2B, for examination "on the merits of the petition." That is done where "there are indications that the child may be mentally ill or mentally retarded." Those examinations must be done on an out-patient basis, "unless the court finds that placement in a hospital or other appropriate facility is unnnecessary." The court may also order an examination of a parent or custodian "who gives his consent and whose ability to care for or supervise a child is at issue before the court." Note that this section requires consent by the parent or custodian who is to be examined.

g. LAW ENFORCEMENT PERSONNEL

1. TAKING A CHILD INTO CUSTODY - § 4.1

A law enforcement officer may take a child into custody under the Juvenile Code under these circumstances:

(1) Under order of the court;

(2) Under the laws of arrest in the "Law and Order Code;"

(3) Where the law enforcement officer has reasonable grounds to believe that a child "is suffering from illness or the child's surroundings are such as to endanger his health, morals or welfare, and that his removal is necessary; and

(4) Where the law enforcement officer "has reasonable grounds to believe that the child has run away from his parents, guardian, or other custodian."

2. NOTIFICATION OF PARENTS - § 4.2

Where a police officer takes a child into custody without a court order, that officer must "immediately" notify "or attempt to notify" the child's parents, guardian or custodian. The officer must also notify the Juvenile Court judge or Youth Counselor and place the child as directed by the judge or, in absence of a judge, by the Youth Counselor.

3. RELEASE FROM TEMPORARY DETENTION OR SHELTER CARE - § 4.4

Police officers, or others who take a child into temporary detention or shelter care without a court order, must "with all reasonable speed" release the child to parents, a guardian or custodian "upon their promise to bring the child before the Juvenile Court when requested by the court, unless the child's placement appears to be required to protect the person or property of others or the child (§ 4.3A(1)) or "to secure his presence at the next hearing" (§ 4.3A(3)).

§ 2.8 PROPOSED WHITE MOUNTAIN APACHE TRIBE JUVENILE CODE (July 1992 draft)

a. THE PROPOSED CODE IN GENERAL

This draft code is a comprehensive law which is designed to deal with all aspects of child welfare. It gives the Juvenile Court jurisdiction over:

(1) Off-reservation child welfare cases under the Indian Child Welfare Act;

(2) Juvenile offenders and status offenders;

(3) Child abuse, neglect or abandonment;

(4) Adults in their relation to children and to proceedings before the court;

(5) Termination of parental rights;

(6) Adoptions;
(7) Child custody and custodial placements;

(8) Mentally retarded or ill children; and

(9) Necessary consents for the marriage of minors.

Section 1.6 provides for the personnel of the Juvenile Court, including judges (with qualification standards), a juvenile prosecutor and a juvenile probation officer (who also appears to be the "juvenile counselor" referred to in the code).

Very importantly, § 1.7 of the code addresses court relation with other agencies. It (1) authorizes cooperation with federal, state and tribal public or private agencies for diversion, rehabilitation or training, including the ability to receive grants, (2) requires the use of social services provided by any tribal, federal or state agency, (3) makes it possible for the court to negotiate contracts for the care or placement of adjudicated children on behalf of the Tribal Council, subject to Council approval, and (4) allows the court to accept or decline transfers of offenders or minors in need of control from other states or tribal courts for adjudication or disposition.

b. REPORTING

As with the Criminal and Juvenile codes, the proposed code has comprehensive reporting provisions. They cover the duty to report (§ 6.1), the persons required to report (§ 6.2), anonymous reports (which are required, with anonymous reports allowed), immunity from liability (§ 6.4), penalties for failure to report (§ 6.5 - a "civil cause of action"), an initial report form (§ 6.6) and a central registry (§ 6.7). The last provision requires either "the department of social services" or "the law enforcement department" to maintain a central registry of reports, investigations and evaluations of child abuse and neglect, as well as the status-outcome of the report.

c. CHILD PROTECTIVE SERVICES

The duties of child protective services officials are listed under the name of social services or a social services department. They include:

1. NOTIFICATION OF FAMILY - § 3.6

The person who takes a child into custody, who will often be a CPS official, must immediately notify the child's parent, guardian or custodian of that fact, and "take all reasonable efforts" to give that advice. That includes telephone and personal contacts at the home or place of employment "or other locations where the person is known to frequent."

2. INVESTIGATION FOR REMOVAL - § 7.1

CPS officials must investigate an initial report under § 6.6 within 72 hours. If the suspected abuse or neglect "seriously endangers the physical well-being of the child," the investigation must be made within 48 hours of the report. The starting time is most likely the time of receipt of the report by the agency.

3. EMERGENCY REMOVAL OF CHILDREN - § 7.2

Both CPS officials and law enforcement personnel have the power to remove a child where (1) reasonable grounds exist to remove and officials believe that removal is necessary to prevent substantial risk of death, permanent injury or serious emotional harm, or the parent or custodian is absent and the child is unable to care for its own basic necessities of life and satisfactory arrangements have not been made for them; AND (2) the person doing the removal ensures the safety and well-being of the child; AND (3) the official notifies the juvenile court, and that parents, guardian or custodian.

4. WAIVER OF PARENTAL CONSENT - § 7.5

A CPS worker can give various consents for examination and interview of a child where there is "reason to believe the child has been subject to abuse or neglect." That includes photographs, x-rays and medical or psychological examinations and interviews by social services or local law enforcement officials.

5. SOCIAL SERVICE REPORTS - § 9.6

The Social Services Department is required to conduct social study(ies) to aid the court in its decision. The scope of the study is "a written evaluation of matters relevant to the disposition of the case." The section outlines the contents of the social study, including:

(1) A summary of the problem;

(2) Steps taken by parents and others to correct the problem;

(3) What services should benefit the parent, etc., but are not available in the community;

(4) A report on how the child is doing in her/her current placement since the last hearing, along with any changes;

(5) Dates of contact (including methods of contact, duration and subjects discussed) with the parent, etc. and child since the last hearing;

(6) If there have been no contacts, the efforts which were made to make contact;

(7) An assessment of when the child is expected to return home;

(8) A list of extended family members, attempts to contact them or the name of extended family members who wish to care for the child;

(9) A case plan for six months, including (a) treatment plan for the parents, (b) future placement of the child, and (c) what services should be provided, if they are needed.

6. PRE-TERMINATION OF PARENTAL RIGHTS REPORT - § 14.4

Where the court is studying the termination of parental rights, the Social Services Department (or other qualified agency) must report on the circumstances of the petition, the investigation, the present condition of the child and parents, proposed plans for the child, "other such facts as may be pertinent to the parent/child relationship," and a recommendation as to whether the parent/child relationship should be terminated.

7. CUSTODY AFTER TERMINATION ORDER - § 14.6

If parental rights are terminated, under § 14.6F the court must commit the child to the custody of the Social Services Department for placement for adoption or in foster care in a home or with a relative. The custodian of the child may consent to adoption, marriage, military enlistment or medical treatment for the child, as would a parent.

8. CONSENT FOR ADOPTION - § 15.2

Where an agency or division has been given legal authority to place a child for adoption under § 15.2A3, the agency or division can give consent for adoption.

9. ADOPTION HEARINGS - § 15.5

Among the other items which the court must consider at an adoption hearing, home studies and other reports are items of consideration (§ 15.5G).

10. MOTION TO MODIFY, REVOKE OR EXTEND A COURT ORDER - § 16.1

Where an "institution, agency or person" is vested (has) legal custody of a child or responsibility for the child's protective supervision, that includes the ability (under § 16.1A7) the power to make a motion to the court to modify, revoke or extend a court order for any case under the Code.

11. SOCIAL SERVICE RECORDS - § 17.2

Files concerning children must be kept separate from files and records on adults. All records must be kept confidential, and only the following persons are entitled to inspect them: (1) the child, (2) the child's parent, guardian or custodian, (3) the child's counsel or guardian ad litem, (5) Juvenile Court personnel working on the case, or (6) any other person with a legitimate interest in the case or the work of the court, by order of the court.

d. LAW ENFORCEMENT PERSONNEL

1. TAKING CHILDREN INTO CUSTODY - § 3.1

A law enforcement make take a child into custody when:

(1) The child commits a juvenile offense in the presence of an officer (i.e. as defined in § 1.4 (definitions) an act which, if committed by an adult, is an offense under the White Mountain Apache Law and Order Code);

(2) The officer has probable cause to believe a juvenile offense has been committed by the child;

(3) The officer has probable cause to believe the juvenile may leave the [territorial] jurisdiction of the court;

(4) A custody order or warrant has been issued by the court authorizing the taking of a particularl child.

2. SEARCHES - § 3.2

The court may issue a search warrant which authorizes a law enforcement officer to search for a juvenile if there is probable cause to believe that the juvenile is within the court's jurisdiction and a custodian warrant has been issued. The court can also issue a warrant authorizing an officer to search for and seize property which has been obtained or is possessed as a delinquent act, or is designed, intended for use, is or has been used to commit an offense. Also, if it would be material evidence in a juvenile offender proceeding.

3. ADVICE OF RIGHTS ON TAKING INTO CUSTODY - § 3.3

When a child is taken into custody as an alleged juvenile offender or a minor in need of control, the arresting officer must advise the child of these rights:

(1) The right to remain silent;

(2) Anything the child says can be used against the child in court;

(3) The child has the right to the presence of a parent, guardian or custodian and/or counsel during questioning; and

(4) The child has the right to an advocate or attorney at his own expense.

4. RELEASE

After giving the § 3.3 advice of rights, the officer must do ONE of the following things:

(1) Release the child to a parent, guardian or custodian and issue "verbal counsel" or a warning;

(2) Release the child to a relative or responsible adult tribal member if the parent, guardian or custodian consents to the release. If the child is age 10 or older, BOTH the parent and child must consent to the release; or

(3) Deliver the child to a juvenile counselor (of the court) or juvenile facility (as designated by the court), to to a medical facility if the child is (a) believed to ned prompt medical treatment, or (2) is under the influence of alcohol or a chemical substance; AND

(4) No child can be placed or confined in a detention facility for more than 48 hours (excluding weekends and holidays) without a court order.

5. NOTIFICATION OF FAMILY - § 3.6

If a law enforcement officer takes a child into custody, and the child is not released to a parent, guardian or custodian, the officer must "immediately" notify the parent, guardian or custodian. An officer must use "all reasonable efforts" to do so, including telephone or personal contacts at home, work or "other locations where the person is known to frequent.' If notice cannot be given to a parent, guardian or custodian, it must be given to a member of the extended family.

6. INTERIM CARE OR CUSTODY - § 4.2

A law enforcement officer can take a "minor in need of supervision" into interim care without a court order ONLY when:

(1) The officer has reasonable grounds to believe the child is in circumstances which are a substantial danger to the child's physical safety; or

(2) The agency with legal supervision of the youth notifies a law enforcement agency that the child has run away from a placement which has been ordered by the court.

When a child is taken into interim care or custody, the law enforcement officer who takes custody must IMMEDIATELY:

(1) Inform the child of the reasons for the custody;

(2) Contact the juvenile probation officer, who must designate placement in an appropriate juvenile shelter care facility which is designated (approved) by the court;

(3) Take the child to the place indicated; and

(4) Inform the child's family, as in § 4.2(D).

Interim care without consent is authorized for no more than 48 hours.

7. EMERGENCY REMOVAL - § 7.2

Law enforcement personnel can remove a child without consent or a court order when:

(1) Failure to remove MAY result in a substantial risk of death, permanent injury or serious emotional harm; OR

(2) When the child's parent, guardian or custodian is absent and it appears, under the circumstances, that the child cannot provide for basic necessities of life AND no satisfactory arrangements have been made to provide for them.

The power to remove is subject to three qualifications:

(1) There must be reasonable grounds at the time to believe removal was necessary as above, AND

(2) The person removing the child ensures the safety and well-being of the child until the Juvenile Court assumes control; AND

(3) The person removing the child complies with the § 7.3 notice provisions.

8. NOTICE OF REMOVAL - § 7.3

A person removing a child must verbally notify the Juvenile Court within 6 hours and document any attempt to contact the court. Actual written notice must be given to the court no later than the close of business of the next court working day. The court then notifies the parent, guardian or custodian.

9. WAIVER OF PARENTAL CONSENT - § 7.5

A law enforcement officer can authorize photographs, x-rays, medical examinations or psychological examination of a child where there is reason to believe the child has been subjected to abuse or neglect. A law enforcement officer can also allow law enforcement and social services officials to interview a child where there is reason to believe a child has been subjected to abuse or neglect. No parental consent is required for these examinations and interviews.

10. LAW ENFORCEMENT RECORDS - § 17.2

Records and files on a child must be kept separate from records and files of adults. All records are confidential and must not be inspected by any person but the following:

(1) the child;

(2) the child's parent, guardian or custodian;

(3) the child's counsel or guardian ad litem;

(4) law enforcement and social services personnel involved in the case;

(5) Juvenile court personnel involved with the case; or

(6) persons authorized by court order who have a legitimate interest in the case or the work of the court.

e. JUVENILE PROBATION OFFICER

1. GENERAL DUTIES - § 1.6

The court appoints a juvenile probation officer, and the general duties of the position include:

(1) Investigations of alleged juvenile delinquents and status offenders, with reports to the court;

(2) Monitoring offenders who are under conditions of release pending trial or probation, to ensure compliance with conditions of release or probation.

2. TAKING A CHILD INTO CUSTODY - § 3.1

A juvenile probation officer may take a child into custody when:

(1) A petition which alleges the minor is a juvenile delinquent or a status offender has been filed, or the minor has been adjudicated; OR

(2) There is probable cause to believe that the juvenile may either leave the [territorial] jurisdiction ov the court or has violated conditions of release or conditions of probation; or

(3) The court has issued a custody or order which authorizes the taking of the child.

3. PREDISPOSITION STUDY AND REPORT - § 3.16

The court must direct the juvenile probation officer to prepare a written study and report for the court on the child and the child's family, environment and "any other matter relevant to the need for treatment or other appropriate disposition of the case" when the child has been adjudicated as a delinquent offender or there is notice of intent or admission of the allegations of the petition.

4. PREDISPOSITION STUDY AND REPORT - § 4.10

The court must direct the juvenile probation officer to prepare a writting report under § 3.16 if a youth has been adjudicated as a minor in need of supervision, there is notice of an intent to admit the allegations or has admitted them.

f. JUVENILE COUNSELOR

1. IN GENERAL

Neither the definition portion of the code nor the section (1.6) which identifies court personnel discusses the position of juvenile counselor. It is unclear whether this is an omission, or the duties of the position fall under those for the juvenile probation officer.

2. VOLUNTARY SERVICES COUNSELLING - § 4.3

In minor in need of supervision proceedings, the juvenile counselor must offer and encourage the child and the child's family, etc. to accept voluntary social services.

3. VOLUNTARY RETURN HOME - § 4.4

If a child has been taken into interim care and the child's parent, guardian or custodian agree to the child's return home, the juvenile counselor may arrange for the return.

4. SHELTER NEEDS ASSESSMENT - § 4.5

If a child refuses to return home, or if there are no other living arrangements which are acceptable to the child or family, the juvenile counselor must offer the child shelter in an appropriate juvenile shelter care facility which is approved by the court. It must be located as close as possible to the family residence. The counselor must also refer the child and family to an "appropriate social services agency" for a family services needs assessment.

5. MODIFICATION, REVOCATION OR EXTENSION OF COURT ORDERS - § 16.1

A Juvenile Court Counselor is among the persons (§ 16.1A5) who may make a motion to the court to modify, revoke or extend a court order. The motion may be made at any time.

g. JUVENILE PROSECUTOR

1. DEFINITION - § 1.4

A "juvenile prosecutor" is someone, who may have another appropriate title, who performs the duties and responsibilities set out in the code.

2. INVESTIGATIONS - § 3.9

Within 48 hours after a juvenile has been detained, or within 5 days of a juvenile being referred to the prosecutor, he or she must "determine whether the interests of the juvenile and the tribe require that further action be taken. When the investigation is complete, the prosecutor may:

(1) Recommend no further action; OR

(2) Suggest to the child and parents, guardian or custodian that they attend an informal adjustment conference under § 3.10; OR

(3) Request a transfer of proceedings for adult proceedings in Tribal Court; OR

(4) File a petition under the code (which must be filed within 48 hours [of what?] if the child is in custody; if the child has been released, the petition must be filed within 10 days [of what?].

3. INFORMAL ADJUSTMENTS - § 3.10

The prosecutor may, after the investigation, hold an informal conference with the child and parents to discuss alternative courses of action in the case. The prosecutor must give an advice of rights under § 1.5. Statements made by the child MUST NOT be used to determine the truth of the allegations of the petition. At the conclusion of the conference, and on the basis of the preliminary investigation, the prosecutor may enter into a written agreement with the child and parents on particular conditions during an informal adjustment period. That cannot exceed six months. The child and parents must understand that the agreement is voluntary and they can terminate the process at any time to petition the court for a hearing. A child has the right to counsel.

If there is no voluntary agreement to diversion, the prosecutor must file a petition under § 3.11. If the informal adjustment agreement is successful, the case must be closed and no further action taken. If the child fails to comply with the agreement, the prosecutor must file a petition under § 3.11.

4. CONSENT DECREES - § 3.11

This section follows up on the provision for an informal adjustment, and it appears to provide for something which is very much the same - a consent decree. It is an agreement to informally settle the matter. The section refers to a "juvenile presenting officer," which also appears to be the prosecutor. That official can move the court to suspend proceedings and continue the child under supervision. A juvenile prosecutor may object to a consent decree. Consent decrees last 6 months, but may be shorter if the court allows. The "presenting officer" must be consulted. That person may also move the court to extend the suprvisory period for another six months. The officer may move to revoke the consent decree for a violation of its terms. If new charges are filed against the child, the "presenting officer" may ask to revoke the consent decree or file a new petition.

5. PETITIONS - § 3.12

Only the prosecutor has the authority to file a juvenile offender petition against a child. This section sets out the contents of a petition.

6. TRANSFER TO ADULT COURT - § 3.13

After the investigation, and even after the filing of a petition, the prosecutor may petition the court to transfer the case to adult court. The child must be 16 or older and be alleged to have committed an action which would be a serious offense if committed by an adult. In addition, the court must find there is no reasonable prospect of rehabilitating the child through available resources and that the offenses show a pattern of conduct which constitutes a substantial danger to the public.

7. MINOR IN NEED OF SUPERVISION INITIAL PROCEEDINGS - § 4.6

Within 48 hours of a youth being referred for interim care, or on information that the youth allegedly committed a status offense which would make him or her a minor in need of supervision, the prosecutor must conduct an investigation to determine whether it is in the interests of the child, family and/or Tribe to take further action. When the investigation is complete, the prosecutor may (1) recommend no further action be taken, (2) suggest voluntary services from a social service agency, (3) recommend an informal adjustment conference under § 3.10 or consent decree under § 3.11, or (4) file a petition under § 4.7. The petition must be filed within 48 hours [of what?] if the youth is in an interim care facility, and within 10 days if the youth is not in custody or has been released.

8. PETITION - § 417

Only the prosecutor may file formal "minor in need of supervision" petitions. This section establishes the contents of the petition.

9. CHILD OR FAMILY PROTECTION PETITIONS - § 8.1

The prosecutor can file child or family protection petitions. If a child has been removed from the home, the petition must be filed no later than 12:00 noon on the second court working day following removal. If the child has not been removed from the home, the petition must be filed within 10 days after the Social Services Department completes its initial investigation. This section sets out the contents of the petition.

10. PETITION FOR INVOLUNTARY TERMINATION OF PARENTAL RIGHTS - § 14.3

A parent or the juvenile prosecutor may file a petition to terminate parental rights. This section outlines the contents of the petition.

11. MOTIONS TO MODIFY, REVOKE OR EXTEND A COURT ORDER - § 16.1

A juvenile prosecutor may (§ 16.1A6 - "juvenile presenting officer") make a motion to the court to modify, revoke or extend a court order at any time.

h. PHYSICIANS, PSYCHIATRISTS OR PSYCHOLOGISTS

1. MEDICAL ASSESSMENTS AND TREATMENT - § 3.18

The court may order a medical assessment of a child who is detained for a juvenile offense relating to alcohol or substance abuse to determine the child's mental or physical state. Where there indications a child is emotionally disturbed or developmentally disabled, the court can ordr testing by a psychiatrist, psychologist or licensed psychometrician prior to a hearing. These examinations must be on an outbasis unless the court determines a hospital or facility placement is necessary. Following an adjudicatory hearing, the court may order examination by a physician, psychiatrist or psychologist. The court can also order such an examination of a parent or custodian who consents where the issue is the ability to care for or supervise a child. An adjudicated juvenile offender may be transferred to a facility for up to 60 days for diagnosis. Evaluations, assessments, dispositional reports and other material must be submitted to the court and parties no later than 3 days prior to a scheduled hearing.

2. MINOR IN NEED OF SUPERVISION ASSESSMENT OR TREATMENT - 4.14

A minor in need of supervision may be assessed or treated as in § 3.18.

3. COURT AUTHORIZATION OF MEDICAL TREATMENT - § 11.1

A court may authorize medical or surgical care for a child when the parent, guardian or custodian is not immediately available AND cannot be found after reasonable eforts, OR if a physician informs the court (orally or in writing) that as a matter of professional opinion, the life of the child would be greatly endangered without certain treatment and the parent, guardian or custodian refuses or fails to consent.

III.

THE LEGAL RIGHTS OF CHILDREN

§ 3.1 THE DEVELOPMENT OF CHILDREN'S RIGHTS IN GENERAL

Different societies have looked at children differently over the ages.

In Anglo-European society of the middle ages, children were looked at and treated in essentially the same way as adults. Prior to the 19th century, they were treated the same as adults in criminal proceedings. Remedies for the mistreatment of children were left to families, and governments seldom intervened. (Although there were special courts to look after orphaned children and their estates or property.)

In the late 19th and early-20th centuries, the idea grew that children had special needs. Many early juvenile court procedures stripped children of many of the rights adults had in criminal proceedings - jury trials, the right to counsel, the right to proof of charges beyond a reasonable doubt, etc. The justification was that this was necessary to "protect" the child. By the 1960s that view changed, and the United States Supreme Court began to hold that children are entitled to essentially the same rights in juvenile proceedings as adults in regular criminal proceedings.

Laws to protect children from neglect and abuse began in the 19th century, when government officials realized that there was a valid interest in what happens to children in families. By the turn of the 20th century, legislatures also passed laws to protect children in the workplace.

Attitudes about children's rights are continuing to change. There is a current debate over the extent to which children must give their informed consent to medical treatment, divorce decisions and other important decisions involving them. Some countries (e.g. Sweden) have passed laws to absolutely prohibit physical punishment of a child - even by a parent. There are test cases where children have been allowed to "divorce" their parents. Courts are considering ways to informally involve children in criminal cases (e.g. videotape testimony in sex cases) and to talk with them in custody matters. The idea is evolving that children can, within their own range of understanding, make decisions or express desires which should be accomodated by adults.

Thus, the law of children's rights is growing and evolving.

§ 3.2 CHILDREN'S RIGHTS UNDER INDIAN COMMON LAW

An outstanding feature of the common law of most Indian tribes is the cultural value of respecting the individuality and wishes of a child. This is the value behind the so-called "permissive child-rearing" customs of many tribes. In the past, Indian children have been taken away from their parents because they have given children a great deal of freedom of action. That ignores the additional cultural value that children, as beings, are entitled to independence and a certain degree of equality.

Some tribes punish children as adults are punished or treated, but most often that is a matter of making a child responsible for his or her actions. It usually involves repayment to an injured victim.

CPS officials should identify tribal values toward children as a means of developing legal policies which promote tribal values.

The Indian Child Welfare Act was necessary to protect Indian families - the extended family in particular. There was a market in Indian children, and it caused what some writers called "cultural genocide." It destroyed Indian families and cultures. The ICWA was an important 20th century acknowledgment of Indian social arrangements, and it acknowledged Indian common law. That common law should be used in tribal courts as well.

§ 3.3 GENERAL RIGHTS UNDER THE INDIAN CIVIL RIGHTS ACT

Children have many of the same rights as adults under the Indian Civil Rights Act of 1968. Some may be modified to fit the particular needs and circumstances of children. For the most part, children have the same rights as adults in criminal proceedings. In civil matters, courts are recognizing the important right of children to have their own counsel. This is not a matter of right under the ICRA, but it is becoming an important right as a matter of child welfare policy.

§ 3.4 CHILDREN'S RIGHTS AS VICTIMS OF CRIME

Section 5.1 of the White Mountain Apache Criminal Code has a Victim's Bill of Rights. Children, as victims, have right to:

(1) Be treated with fairness, respect, and dignity, and to be free from intimidation, harassment, or abuse in the criminal justice system;

(2) Be informed, upon request, when an accused or convicted person is released from custody or has escaped;

(3) Be present at and, upon request, be informed of all criminal proceedings where the defendant has a right to be present;

(4) Be heard at any proceeding involving a post-arrest release decision, a negotiated plea, and sentencing;

(5) Refuse an interview, deposition or discovery request by or on the defendant's behalf;

(6) Confer with the prosecution after the crime has been charged and before disposition, and to be informed of the disposition;

(7) Read pre-sentence reports;

(8) Receive prompt restitution for a loss or injury on

conviction;

(9) Be heard on post-conviction release;

(10) A speedy trial or disposition and a prompt and final conclusion of the case after conviction and sentence;

(11) Have all rules of criminal procedure and evidence protect victim's rights; and

(12) Be informed of victims' constitutional rights.

§ 3.5 WHITE MOUNTAIN APACHE JUVENILE CODE

a. RIGHT TO COUNSEL - § 5.1

Children have the right to be represented by counsel. The court may appoint counsel in delinquency and need of supervision cases. In neglect cases, parents, guardians or custodians may have counsel appointed for them. The code makes no provision for children, but counsel for them should be considered.

b. ADMISSIBILITY OF PRELIMINARY STATEMENTS - § 5.2

Unless the child has counsel, no statement made while in custody to a Youth Counselor, or statements made during a preliminary inquiry or predisposition study, may be used against the child to determine the allegations of the petition.

c. DOUBLE JEOPARDY - § 5.3

An adjudication of delinquency or need of supervision is not a conviction. No criminal or other juvenile proceeding based upon the allegations of a petition may be instituted where the Juvenile Court has begun taking evidence or accepted a plea bargain which admits the allegations of the petition.

d. OTHER BASIC RIGHTS _ § 5.4

Children charged with being delinquent or in need of supervision have the right to (1) the privilege against self-incrimination, (2) the exclusion of illegally seized or obtained evidence, and (3) nonuse of a valid extrajudicial admission or confession to support an adjudication unless the acts are corroborated by other evidence.

e. PROOF BEYOND A REASONABLE DOUBT - § 6.3

Children must be advised of their rights, and (under § 6.3D) the court must find proof beyond a reasonable doubt that the child is delinquent or a child in need of supervision.

f. OTHER RIGHTS

In neglect or abuse proceedings, children are entitled to full protection by public officials, and child welfare statues must be strictly complied with. That is particularly the case for mandatory provisions. Children have the right to prompt and speedy protection, fair treatment, medical care and a careful consideration of their individual rights in relation to their families. Many of the same concepts as those in the Victim Bill of Rights, above, apply.

§ 3.6 WHITE MOUNTAIN APACHE TRIBE JUVENILE CODE (1992 DRAFT)

Children's rights under the proposed code include:

(1) The privilege against self incrimination;

(2) The right to counsel;

(3) Limited use of fingerprints or photographs;

(4) Information on rights, including:

  (a) The allegations against him;

  (b) The right to counsel at his own expense;

  (c) The right to testify or remain silent;

  (d) The right to cross-examine witnesses;

  (e) The right to require witnesses to appear on his behalf and to introduce evidence on his own behalf;

  (f) The possible consequences if the allegations in the petition are found true; and

  (g) The right to appeal any adverse decision.

Again, the rights of children who are neglected or abused are set out in the code, and they must be strictly complied with for the benefit of children.

IV.

THE RIGHTS OF BIRTH AND FOSTER PARENTS

§ 4.1 RIGHTS OF BIRTH PARENTS IN GENERAL

The rights of parents have changed and evolved over the centuries. In child custody matters, there was an early presumption and fathers had a preference for child custody. In the late 19th and early 20th century, there was either a formal right of preference for custody for mothers, or a standard practice that they would have custody.

Today, and particularly in jurisdictions which have adopted an equal rights constitutional provision (i.e. on the basis of sex or gender), there is no preference for either parent in custody decisions. Instead, the courts look to various factors which go to a child's best interests.

In American constitutional law, there is a strong right in favor of the integrity of families. They include rights of privacy, to choose an education for children, to prevent state impositions of religious belief (e.g. in the prayer and pledge of allegience cases), to stay out of school due to religious beliefs, etc.

Family rights are "liberty" rights, and the due process clauses of the 5th and 14th Amendments to the U.S. Constitution, as well as the Indian Civil Rights Act, require that family liberty rights cannot be taken away without due process of law. The right to keep children in the family is a liberty interest which due process protects.

There are many due process rights, but some of them include:

1. The right to fair written notice before a liberty interest is to be taken away;

2. The right to prepare for a trial or hearing (i.e. adequate time to prepare a defense);

3. The right to counsel at all stages of proceedings;

4. The right to confront witnesses;

5. The right to produce evidence or get it by subpoena;

6. The right to a fair hearing before an impartial decision-maker.

One very important due process right is to require public officials to obey the laws, rules and regulations which govern their activities. That right applies to decisions by officials and courts, and it can be the basis for civil rights claims.

Although the doctrine is limited by sovereign immunity statutes, public officials have been sued by parents for denials of civil rights, statutory rights or for discrimination. There are doctrines of attorney, police and social worker malpractice which have been the basis for suits when officials violate the laws or standards which regulate them.

§ 4.2 INDIAN COMMON LAW PARENTAL RIGHTS

Many tribes do not follow the notion that children "belong" to parents, and instead say that they "belong" to God or to the extended family. At the same time, there are strong cultural values about the integrity of Indian families. In some tribes, there can be no termination of parental rights because that is an alien concept. Instead, they use guardianship laws to place children with extended family members.

The Indian Child Welfare Act's preference for placement in extended families follows Indian traditional values, as does its provisions that an Indian tribe may intervene on behalf of children in state placement proceedings.

Indian cultural values are a basis for Indian common law, and they should be identified and recognized in Indian child welfare cases.

§ 4.3 RIGHTS OF FOSTER PARENTS

This is a controversial area of law. Many states and the United States Supreme Court have held that foster parents have no right to challenge the removal of children. They have no "standing" or right to bring a court challenge to a placement decision. These rulings do not apply in tribal court unless the court adopts them. Foster parents may persuade a court that they have certain rights to a child in foster placement (including rights under placement agreements), as well as a demonstrated injury which the law should respect.

The caution is that while the question appears to be settled, it could arise again.

§ 4.4 RIGHTS UNDER TRIBAL CODES

Parents have the same rights as children, stated in the previous section. Above all, given the sanctity of the family and its protection as a "liberty" interest, great care must taken to observe the rights which have been set out in tribal codes.

V.

WHEN SERIOUS OR CONTINUAL ABUSE WARRANTS COURT ACTION

§ 5.1 GENERAL PRINCIPLE

As recited above, there is a constitutional liberty interest in the integrity of the family. There is also a strong policy interest in the privacy of families. The general principle is that the state (i.e. the tribe as a state government) cannot intervene in family matters (including treatment of children) unless there is a strong governmental interest to do so.

Tribes, as governments, have a strong interest in protecting their child tribal members. That interest is expressed in tribal codes which protect children by (1) treating them in a special way in delinquency proceedings, (2) creating "status" offenses for children only, to protect them (e.g. truancy, drinking, drug and traffic laws), (3) prohibiting abuse, and (4) prohibiting neglect.

§ 5.2 STATUTORY DEFINITIONS - IMPORTANCE

Given the general prohibition against interference in family matters unless there is a strong justification to do so, tribal codes carefully define the conditions which permit intervention by tribal officials. They must (1) carefully read and understand the definitions of delinquency, children or minors in need of supervision, neglect, dependency or abuse, and (2) carefully follow the procedures outlined in codes for dealing with those situations.

§ 5.3 PROBABLE CAUSE

Most criminal statutes and many juvenile codes require a public official to have "probable cause" before taking action. This standard is nothing more than the ability of a public official to justify to a judge why an action was taken or why action should be taken. It is reasonable grounds, from the viewpoint of the official, to take action. Those grounds are communicated to a judge an an oral sworn statement (testimony under oath) or in a written sworn statement (affidavit or application). Often, an official may use hearsay (the statements of others) to support his or her conclusion that proposed action is reasonable.

When writing probable cause documents, it is good to follow the old writer's rule of thumb to state the WHO, WHAT, WHEN, WHERE, WHY and HOW of the situation.

Probable cause is nothing more than a statement of good reasons why something should be done or why something was done. It shows the basis for the information (seeing it or hearing a report from others), the official's belief of why the information is reliable, and what the information supports official action.

§ 5.4 DETECTING ABUSE

The most important method of detecting abuse is reporting statutes. Most professionals follow reporting statutes, although some may be busy, neglectful, unobservant or negligent. The key to their cooperation is education and coordination. In particular, tribal officials must convince professionals of their interest in children's problems, a willingness to enforce the law, and the ability to investigate, prosecute and handle children's cases. The public at large is another important source of information about abuse. Most people are hesitant to intervene. They are afraid "to get involved." They are intimidated by family pressures or neighbors, and they are often hesitant to "call down" officials on people. In particular, members of extended families are reluctant to call "the welfare" on their own relatives. These barriers can be overcome by a good program of public education. It should stress the importance of children and their welfare, show a caring CPS community and show that CPS activities protect children and families.

§ 5.5 INVESTIGATION

Child welfare cases are hard. Abuse or neglect takes place in the privacy of the home and often comes to light only after a child has been injured or becomes ill. Although abandonment cases and situations where children are left in vehicles or other homes while parents drink are obvious, justifying the removal or foster placement of a child is difficult. Child welfare cases require dedication, patience and a great deal of footwork. They need skills such as persistence, good communication and listening.

VI.

ROLES OF THE VARIOUS DISCIPLINES

§ 6.1 PARENTS AND FAMILIES

Being a parent is a profession or a discipline. That is shown by the need for "parenting" classes. The most vital role of the CPS process is avoiding becoming a part of it. That role is taught by parents and families, grandparents, clan members, neighbors, schools and social welfare programs. For that reason, good parenting habits are an essential part of public education efforts and school programs.

Being an extended family member is also a profession or discipline. An extended family member is the first source of help, and that is particularly the case with Indian families. They are often called upon to give money or child care help. They can prevent abuses to children or child delinquency. They can also report offenses or child abuse and neglect. Again, public education is an important means of reaching out to this segment of the CPS community.

§ 6.2 PHYSICIANS AND MEDICAL PERSONNEL

Often, the first hint of abuse or neglect comes from physicians and medical personnel who see children. Parents who are otherwise neglectful or abusive will take their children into a medical facility for treatment. Both public (i.e. Indian Health Service) and private (e.g. physicians in nearby towns) medical facilities must understand both their obligations under reporting laws and their ethical duties to report any suspected mistreatment of children. A climate of cooperation with tribal officials comes from personal contacts, meetings with professional organizations and professional education.

§ 6.3 SCHOOL PERSONNEL

Teachers, teacher aides and other school officials are also an "early warning" system to detect problems. They come across rebellious or disobedient students, pupils who are obviously hungry, and those who are injured, ill, incapacitated, etc. School officials need assistance in the process of identifying reportable difficulties and the method to initiate the CPS process. In particular, school boards, Johnson-O'Malley Act parents committees, parent-teacher organizations and other groups of parents can make efforts to get schools involved in the effort.

§ 6.4 LAW ENFORCEMENT OFFICIALS

Law enforcement officials are the ones most likely to see the inside of homes, where abuse takes place. Domestic violence calls, loud party complaints and other calls to homes often give officers grounds to find child abuse or neglect. They may hear complaints of abandoned children or see signs of conditions which are bad for children. They may find hungry, crying children and no food in a refrigerator. They may see children who are injured or in poor condition. Police officers see things, and they should be trained to observe conditions which are harmful to children. In domestic violence cases, they should watch for children who are its victims. Officers should be trained in the CPS process. As active participants in the investigation of child crimes and neglect-abuse cases, they should know what constitutes probable cause for CPS intervention.

§ 6.5 PUBLIC AND PRIVATE SOCIAL SERVICE AGENCIES

We usually think of welfare or social services departments as "social service agencies." Actually, there are many more. They can include Indian housing authorities, domestic violence shelters, job offices and the many kinds of social service programs which are found in Indian Country. They can include social organizations, such as a veteran's organization, pow-wow organizing committee or other group. All these are resources to (1) detect child delinquency, abuse or neglect, (2) serve as a source of information, and (3) help treat children and families.

More particularly, CPS social work professionals are at the heart of the process. They are trained observers of children and families, who know how to identify children at risk, investigate cases and recommend approaches.

§ 6.6 ATTORNEYS, ADVOCATES AND LEGAL PERSONNEL

Legal professionals are an important part of the process, because (1) they too can help identify cases where intervention is necessary and (2) they can help solve problems. A good representative of a child or parent can encourage cooperation and suggest solutions. Often, a good attorney will help develop a treatment plan for children and families which can be adopted by a prosecutor, presenting officer or court.

§ 6.7 JUDGES AND COURT OFFICIALS

One of the worst problems a judge sees is a lack of coordination among prosecutors, witnesses and parties. The judge has the right to control the progress of proceedings and move a case along. The judge can promote cooperation through case oversight (in pretrial conferences) and the entry of orders.

VII.

CRIMINAL AND CIVIL DISPOSITIONS OF CHILD ABUSE AND NEGLECT CASES

§ 7.1 CRIMES AGAINST CHILDREN

The crimes against children under the White Mountain Apache Criminal Code include:

(1) Abduction § 2.1

(2) Contributing to the delinquency of a minor § 2.17

(3) Truancy § 2.29

(4) Nonsupport of children § 2.30

(5) Incest § 2.36

(6) Exposure (sexual) § 4.2B

(7) Public sexual indecency § 4.3

(8) Sexual abuse § 4.4

(9) Sexual conduct with a minor § 4.5

(10) Child molestation § 4.9

(11) Child abuse § 4.10

(12) Commercial exploitation of a minor § 4.13

(13) Sexual exploitation of a minor § 4.14

(14) Portraying adult as a minor § 4.15

(15) Public displays of sexual conduct § 4.17

(16) Dangerous crimes against children § 4.19; including:

    (a) Second degree murder;

    (b) Aggravated assault;

(c) Sexual assault;

(d) Molestation of a child;

(e) Sexual conduct with a minor;

(f) Commercial sexual exploitation of a minor;

(g) Child abuse;

(h) Kidnapping;

(i) Sexual abuse;

(j) Taking a child for prostitution;

(k) Child prostitution; and

(l) Invoving or using minors in drug offenses.

§ 7.2 CURFEW VIOLATIONS

The White Mountain Apache Tribe has a curfew law, which is a law that dates back to the days of William the Conquerer, who invaded England in 1066. A minor under the age of 18 cannot be on the roadways, streets, alleys or public places within the White Mountain Apache Reservation between 9:00 p.m. and 5:00 a.m. on Sundays through Thursdays, or midnight through 5:00 a.m. on Friday and Saturday nights, between September 15th through May 15th. From May 16th through September 14th, the hours are 10:00 p.m. to 5:00 a.m. on Sundays through Thursdays, and 12:00 midnight to 5:00 a.m. on Fridays and Saturdays. A minor can be out during those hours if accompanied by parents, guardian, adult relative or adult friend who is approved by the parents or guardian. § 12.1, Juvenile Code. It is unlawful for parents or guardians to permit a minor to violate the curfew law, and it is not a defense thazt they did not know the minor was out. § 12.2, Juvenile Code. The penalty for violation of the curfew law by children, parents or guardians is a jail term of up to 30 days, a fine of up to $30, or both. § 12.3.

§ 7.3 DELINQUENCY

An "act of delinquency" under the present Juvenile Code is "an act which if committed by an adult would be punishable as an offense against the White Mountain Apache Tribe or against the State of Arizona." Note that the definition incorporates both White Mountain Apache and Arizona criminal law. § 1.1D, Juvenile

Code. The proposed juvenile code defines it as a "juvenile offense" or "delinquent act," and they are "An act, which if committed by an adult, would constitute a crime under the Tribal Law and Order Code." § 1.4, proposed Juvenile Code. Thus, juvenile offenses are defined by reference to criminal statutes.

§ 7.4 CHILD OR MINOR IN NEED OF SUPERVISION

"CHINS" or "MINS" laws are designed to deal with the problem of children who do things adults do, but should not do them. Some examples include drinking, smoking and curfew violations. Under the current juvenile code, a "child" or "person in need of supervision" is one who: (1) is habitually a truant from school where there is compulsory school attendance, (2) habitually disobedient to the reasonable and lawful demands of parents, guardians or custodians, AND is ungovernable and beyond their control, (3) has commmitted an offense which is not classified as criminal or one which applies only to children, OR (4) is in need of care or rehabilitation when falling within one of the prior three categories. § 1.1G, Juvenile Code. Under the proposed code, a "minor in need of supervision" or a "status offender" is a minor (under age 18) who persistently or habitually refuses to obey the reasonable or proper order or directions of parent(s), guardian or custodian, OR who is beyond the control of them, OR who violates the curfew law, OR who violates the status offenses in § 4.1. § 1.4, proposed Juvenile Code. The § 4.1 status offenses are (1) habitual absence from school without justification, (2) curfew violations, and (3) being a runaway.

§ 7.5 CHILD NEGLECT

The present juvenile code uses the term "neglected child." § 1.1F. That means a child who (1) has been abandoned, (2) is without proper parental care and control OR subsistence, education, medical or other care or control necessary for well-being because of the faults or habits of his parents, guardian or other custodian, OR their neglect or refusal, when able to do so, to provide them.

Under the proposed code, "neglect" means not providing a child with the necessities of life, including food, shelter, clothing, medical care, education or supervision OR a child who is not provided with a home or suitable place of abode, OR whose home is unfit by reason of abuse, neglect, cruelty, or depravity by parents, guardians or other persons having care or control of the child. § 1.4, proposed Juvenile Code.

§ 7.6 A "DEPENDENT" OR "CHILD IN NEED OF PROTECTION"

The proposed Juvenile Code states a comprehensive definition of children who are "dependent" or "in need of protection." § 1.4. There are seven categories of situations which fit the definition:

(1) A juvenile who needs proper and effective parental care or control and has no parent or guardian or custodian able or willing to exercise care or control, OR who has not been provided with adequate food, clothing, shelter, medical care, education or supervision which are neceessary for his health and well-being; OR

(2) A juvenile who has been abandoned; OR

(3) A juvenile placed for care or adoption in violation of tribal law, the Indian Child Welfare Act, or other federal law; OR

(4) A juvenile who has been physically, emotionally, psychologically or sexually abused by parents(s), guardian or custodian; OR

(5) A juvenile who has been sexually exploited by parent(s), guardian or custodian; OR

(6) A juvenile whose parent(s), guardian or custodian has knowingly, intentionally or negligently (a) placed the child in a situation that may endanger his life or health; or (b) tortured, cruelly confined or cruelly punished him; OR

(7) a juvenile who has committed delinquent acts due to parental pressure, guidance or approval.

§ 7.7 CRIMINAL PROCEDURE IN GENERAL

Criminal procedure is designed to determine, through a judge or jury, whether a given person violated each and every element of a criminal statute, beyond a reasonable doubt. The stages of a criminal trial include (1) arrest, (2) arraignment (to clearly state the charge and allow for release on bail), (3) discovery, (4) trial and (5) sentence.

§ 7.8 JUVENILE PROCEDURE IN GENERAL

Juvenile proceedings for delinquent acts generally follow the same steps as criminal trials. Where a child is allegedly neglected, dependent or in need of care, the steps include (1) a report of risk, (2) a preliminary investigation, (3) a petition,

(4) informal proceedings to address the situation by consent, (5) investigations and reports to recommend action to the court, (6) temporary dispositions, and (7) permanent placements.

§ 7.9 PROOF BEYOND A REASONABLE DOUBT

In criminal and delinquency cases, the tribe must prove each and every element of the offense law "beyond a reasonable doubt." An "element" is a separate act or situation, including identification of the person, mental state and acts. Proof beyond a reasonable doubt confuses many, but it is nothing more than confidence that a person did indeed commit the offense. It is a moral standard of confidence in the proof.

§ 7.10 CLEAR AND CONVINCING EVIDENCE

This is a degree of proof which requires a judge or jury to find that there is more than a suspicion or more than a conclusion that it is "more likely than not" that the situation which the law prohibits exists. It is a degree of confidence in the evidence that while there is less than a "reasonable doubt" that the law has been violated, there is more than a liklihood that it has.

§ 7.11 THE CIVIL "PREPONDERANCE OF THE EVIDENCE" RULE

When a judge must decide a civil case (and juvenile proceedings for abuse, neglect or dependence are civil), the standard is that the judge must conclude that it is "more likely than not" that the condition which the law prohibits exists.

VIII.

LESS-INTRUSIVE INTERVENTIONS TO PROTECT CHILDREN

§ 8.1 A BALANCING TEST

We have seen, above, that the law respects family and personal privacy. Tribal officials cannot intrude or poke into personal business without a good reason to do so, and without reliable information to support tribal action. There is a related concept that where official action is necessary, it should be the least-intrusive action necessary to achieve the goal or purpose of protecting children. That is, the goal or end purpose of laws to protect children is their best interests or well-being. To achieve that goal, the actions taken by CPS officials should be designed to keep the child with its family. Where action must be taken to remove a child from the home for its own protection, the removal should first be temporary. At that stage, the tribe should give parents or custodians the training or resources they need to correct the bad situation. If that doesn't work, then CPS officials should recommend a permanent solution which may involve placing the child with relatives, extended family members or others. This is a balancing test, where we attempt to respect family privacy and integrity while at the same time we try to protect children. One of the duties of CPS personnel is to attempt to get the job of protecting children done in a way which keeps the child with the family. Some studies of child welfare show that even where a child is in a bad family situation, it is better to leave the child with the family than place the child with others in foster care or an adoptive placement. Children are removed from their homes only for serious reasons, and only where it is clear that placement elsewhere is needed. Otherwise, there may be severe consequences to the child and the family.

§ 8.2 OFFICIAL DISCRETION

As has been shown throughout this session, CPS officials (including police, social services workers, medical people, counsel and court personnel) have required or mandatory duties, and they have discretion to act or not. They are in a difficult position: the law requires them to be observant and act when they see child neglect or abuse. At the same time, the law requires them to respect the personal rights of parents, children and families. It is easy to cross the line which separates the proper use of discretion and abuse of it. A judgment in a CPS case is "good" or "bad" depending upon the motives of an official and the way the official carries out his or her duties. A "good" decision most often is based upon (1) adequate information, (2) consultation and cooperation with others, (3) cool and clear thinking, and (4) making a reasonable decision with all the facts.

§ 8.3 THE DECISION PROCESS

There are many ways to make a "reasonable" decision about the welfare, best interests or well-being of a child. The steps to a decision most often require the following actions:

(1) ESTIMATE THE SITUATION

This is the stage where we gather facts. A child lives in an environment of family, neighbors, community and school. We must identify the actors in the environment. That is, WHO does the child see each day? Who are the child's parents, brothers and sisters, extended family or clan members, neighbors, teachers or other people the child sees almost every day? What records are kept on a child? What is the child's health situation? How is the child doing in school? All these people and recorded information give us clues about the situation of a child.

(2) LOOK FOR CAUSES

Every action has a reaction. Every attitude causes an action. A good investigation of the facts will disclose the reasons for them. If a child is left alone or with elderly relatives, often alcohol abuse is a cause. It may be that identification of that factor will lead to the conclusion that the child's parents need alcohol abuse treatment. The presence of family violence may require behavior modification to deal with anger; it may be caused by unemployment, a history of abuse to the abuser, or some other environmental cause. Most parents do care about their children on some level. They may be misguided or have misplaced priorities. They may need help or guidance themselves. A proper investigation of a child's family situation requires some thought about the causes of that situation.

(3) SET GOALS

A goal is a desired outcome; it is a step to address a problem. Goals should be specific, matched to the problem, and have times for completion. They should be reasonable and realistic. It is not enough, for example, to put a child in foster placement and generally require the parents to enter an alcohol treatment program. There should be incentives for parents to deal with their problem(s), and a specific treatment program which is suited to needs. It must be designed to work. The goals of a CPS plan must be carefully established, and they must be related to the problem so as to solve it.

(4) PLANNING STEPS

After the process of assessing the child's condition, the causes for it and the goals which are needed to overcome it, there should be a plan. A "plan" is nothing more than a list of actions or steps which are designed to carry out the specific goals of a given CPS case. Here too, the steps should (a) be specific, (b) have deadlines for completion or review, (c) assign responsibilities to named people, and (d) be realistic. When setting steps or actions to be done, the primary considerations should be whether the people who must do them CAN or WILL do them, and do them in the time allowed. Too often planners have a good idea about what must be done to solve a problem, but set out steps which are unrealistic or too general. It is not enough, for example, to establish the step of "alcohol rehabilitation." Is there a good program in the area? Is it acceptable to the people who will enter it? Are they ready or committed to the process? Do they accept it? When will they go? When will they finish?

§ 8.4 FINAL CONSIDERATION

The successful completion of all the steps and procedures the law requires is a product of the attitudes and good will of every person in the CPS process. Armed with a good understanding of the goals of the law and the steps of the process, a good CPS official can explain the process to others and persuade them to do their part to make it work. That requires (1) a good understanding of the system, (2) knowledge of who works in it, (3) reaching out to others, (4) patience, (5) educating self and others, and (6) carrying out duties without any personal bias. The last part is hard: most adults react emotionally when they see a child in pain. Emotions are valuable to the process of protecting children, and the emotion of caring for children is what carries CPS workers through the day. Burnout is a product of caring too much; violations of people's civil rights are caused by being too eager to get the job done, ignorance, or laziness. The least-intrusive intervention into a family is the product of planning, investigation and caring work. It requires CPS people to look, educate and discuss. It is a process of loving patience.

* * *

NOHWII CHAGHASHE BAA DA GONTDZAA - PROTECTING OUR APACHE CHILDREN

UNIT III.2

LEGAL ISSUES IN CPS: FEDERAL LAWS AND JUSTICE SYSTEM

INSTRUCTIONAL GOALS: Child protective service professionals who serve Indian tribes deal with both the tribal and federal systems. They must also understand the federal statutes which apply to children or those who injure children. The course objectives of this unit are to:

1. Outline the provisions of the Major Crimes Act;
2. Discuss children's rights under federal law;
3. Discuss birth and foster parent's rights under federal law;
4. Identify the disciplines which are involved in federal court proceedings;
5. Define and apply federal laws and procedures for the criminal and civil disposition of child abuse and neglect cases;
6. Describe less-intrusive interventions to protect children while maintaining family integrity.

I.

THE MAJOR CRIMES ACT

§ 1.1 HISTORY BEHIND THE ACT

Brule Sioux chief Crow Dog was sentenced to death by the First Justicial District Court of Dakota Territory for the murder of spotted tail. On December 17, 1883, the United States Supreme Court ruled that neither state nor territory law applied to the activities of Indians in Indian Country. It held that it would be unfair to subject Indians to "alien" non-Indian law, and that only Indian law applied to crimes committed in their own areas. Crow Dog was freed. At the time, there were no federal laws which dealt with crimes by Indians against other Indians. 109 U.S. 557.

In reaction to the decision, on March 3, 1885, the United States Congress passed the Major Crimes Act. For the first time, Indians could be tried in federal court for criminal acts against other Indians. The original crimes punished under the act were murder, manslaughter, rape, assault with intent to kill, arson, burglary and larceny.

§ 1.2 THE MAJOR CRIMES ACT TODAY

The Indian Major Crimes Act now deals with 14 offenses:

1. Murder
2. Manslaughter
3. Kidnaping
4. Rape
5. Carnal knowledge or any female, not a wife, who has not attained the age of 16 years (statutory rape)
6. Assault with intent to commit rape
7. Incest
8. Assault with intent to commit murder
9. Assault with a dangerous weapon
10. Assault resulting in serious bodily injury
11. Arson
12. Burglary
13. Robbery
14. Larceny within Indian country.

The definitions of burglary and incest are set by state law, and any offense which is not defined by federal law is defined and punished as in the law of the state where the offense is committed.

§ 1.3 RELATION TO TRIBAL LAW

In 1978, the United States Supreme Court held that it is not double jeopardy to prosecute and punish criminal defendants under both tribal and federal law. That is due to the fact that the United States and an Indian tribe are separate sovereigns with their own laws. UNITED STATES v. WHEELER, 435 U.S. 313 (1978).

There is an unresolved question of whether the existence of a crime under the Major Crimes Act prevents tribes from adopting a criminal statute to punish the same offense. However, that issue has not been resolved.

§ 1.4 FEDERAL CRIMINAL PROCEDURE IN GENERAL

The United States Constitution requires an indictment before federal criminal charges can be filed. An "indictment" is a determination by a grand jury (an investigatory jury which operates secretly) that a crime has been committed and that there is probable cause to believe that a certain person committed it.

Grand juries are largely under the control of the United States Attorney for a state. Only the U.S. Attorney appears before the grand jury, and he or she controls the evidence it hears. It is rare for a grand jury to decline to issue a "true bill" (indictment) when one is requested.

The U.S. Attorney has a great deal of prosecutorial discretion. That is, he or she can decide to present a case for indictment and prosecution or can decline to do so. There is no legal way to force a U.S. Attorney to file criminal charges.

In turn, the U.S. Attorney relies upon the Federal Bureau of Investigation (F.B.I.) and the Law Enforcement Branch of the Bureau of Indian Affairs (B.I.A) for information, case referrals and evidence of crimes in Indian Country. To some extent, a U.S. Attorney will rely upon tribal law enforcement officials for information and evidence.

§ 1.5 TRIBAL POLICE POWERS

Tribes have the power to arrest non-Indians to turn them over to federal officials for prosecution. ORTIZ-BARRAZA v. UNITED STATES, 512 F.2d 1176 (9th Cir. 1975) (an Arizona case). However, there are ongoing controversies over the extent to which the F.B.I. or the U.S. Attorney will use tribal police evidence in a federal prosecution. Some FBI offices refuse to rely upon tribal police evidence at all. This creates law enforcement and prosecution problems. Tribal police are the first at the scene of a crime, and if they have to withhold crime scene investigation pending the arrival of B.I.A. officials or the F.B.I., it may be destroyed. Rivalry and friction between federal law enforcement officials and local police has been a problem througout the United States.

§ 1.6 PROBLEMS OF FEDERAL-TRIBAL RELATIONS

Several years ago, the Senate Select Committee on Indian Affairs found that the F.B.I. and U.S. attorneys failed to adequately respond to the problem of crime in Indian Country. Despite attention to this problem, there are some who continue to claim that the F.B.I. and U.S. attorneys ignore crime in Indian Country. At present, narcotics offenses are the priority for federal prosecution. Major Crimes Act cases are less "glamorous" for U.S. attorneys, and many consider them to be boring, routine work. As a result, tribes are demanding more resources to conduct their own criminal investigations and prosecutions.

§ 1.7 DEALING WITH THE PROBLEMS

Good tribal relations with B.I.A. Law Enforcement, the F.B.I. and the Office of the U.S. Attorney are important. If these officials better understand local conditions and priorities, they can let local officials know their requirements for prosecution. Given the fact that most or all of the Major Crimes Act's offenses affect children, it is important to establish working relations with federal officials to address them. Tribes cannot impose more than a one year jail term and/or a $5000 fine in tribal court. Sometimes a federal felony prosecution is required to remove a repeat offender or impose long-term probation or parole conditions.

II.

THE RIGHTS OF CHILDREN UNDER FEDERAL LAW

§ 2.1 FEDERAL APPROACH TO DOMESTIC RELATIONS LAW

Domestic relations law, which deals with the rights of children and families, has traditionally been a local law issue. The United States seldom enters the field unless there are serious interstate consequences. There are special laws for Indian children.

§ 2.2 RIGHTS UNDER THE INDIAN CIVIL RIGHTS ACT OF 1968

The Indian Civil Rights Act of 1968 (ICRA) was designed to impose substantially the same protections as the U.S. Bill of Rights (the first ten amendments to the U.S. Constitution) upon Indian tribes. There are some important exceptions, however. The ICRA does not prohibit the quartering of troops in homes, require a separation of church and state, or require tribes to appoint free legal counsel to poor people in criminal cases where there will be a jail sentence. Defendants are entitled to have counsel in criminal cases at their own expense.

The provisions of the ICRA which create rights for children are the due process clause and the equal protection clause. The due process clause requires that laws be fundamentally fair and that people be treated fairly by their tribal governments. The clause has been an important source of children's rights under the Bill of Rights. For example, it guarantees family privacy, reproductive freedom, language rights, education rights and other important rights. The equal protection clause prohibits treating different classes of people differently. That means that there must be special reasons and justifications for treating children differently from adults.

§ 2.3 THE INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT OF 1975

This important law, passed in 1975, is designed to turn over responsibilities for Indian programs to tribes. As a general matter, any program of assistance to Indians which is administered by the Department of the Interior (mainly the B.I.A.) or the Department of Health and Human Services (Indian Health Service) can be operated by a tribe under a grant or contract with the federal government.

In 1924, Congress passed the Snyder Act, which authorizes the Secretary of the Interior to provide essential governmental services to Indians throughout the United States. 25 U.S.C. § 13. One of the enumerated services includes "relief of distress and conservation of health." Another includes the employment of field matrons, Indian police and Indian judges. A "field matron" was a kind of social worker.

§ 2.4 THE INDIAN CHILD WELFARE ACT OF 1978

The Indian Child Welfare Act ("ICWA") is one of the most important pieces of legislation in favor of Indians ever enacted. One of the most destructive was the Dawes General Allotment Act of 1887. That law, which required the allotment of tribal lands to individual Indian family heads, was designed to turn Indians into farmers and ranchers to "civilize" them. Instead, it had the effect of destroying Indian families and taking away tribal lands (when "surplus" lands were given to non-Indians)."

Another destructive practice was slavery. The Spanish had a widespread practice of taking Apache and other Indians as slaves. They often concentrated on Indian women and children. Slavery was a cause of much of the warfare between the Spanish and Mexicans and the Indian tribes of the southwest. Overt slavery ended when the United States occupied the southwest following the Treaty of Guadalupe-Hidalgo with Mexico (1848). However, a new form of Indian slavery continued into modern times - the marketing of Indian children. A racist notion persisted that Indian children should be "saved" from the "barbarism" of their tribes and placed with non-Indian families for "civilization." The intent was the same as the Dawes Act, and the effect was similar. Following disclosures of what some called "cultural genocide," Congress passed the Indian Child Welfare Act in 1978.

The Act affects jurisdiction. It provides that if a child who is enrolled or eligible for enrollment in any "recognized" (by the United States) American Indian tribe is the subject of a state "child custody proceeding," then the case may be sent to that child's tribe. A "child custody proceeding" includes:

(1) FOSTER CARE PLACEMENT: Where a child is removed from its parent or Indian custodian for temporary placement in a foster home or institution, or the home of a guardian or conservator, and the Indian custodian cannot have the child returned on demand.

(2) TERMINATION OF PARENTAL RIGHTS: An action resulting in the termination of the parent-child relationship.

(3) PREADOPTIVE PLACEMENT: The temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but prior to or in lieu of an adoptive placement.

(4) ADOPTIVE PLACEMENT: The permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption.

A child custody proceeding does NOT include a placement for a juvenile offense, or an award of custody to a parent in a divorce proceeding.

EXCLUSIVE TRIBAL JURISDICTION

Where a child "resides or is domiciled" within the reservation of an Indian tribe, the tribe has exclusive jurisdiction over any child custody proceeding involving that child. A "residence" is a place where a person actually lives; usually where the person most often sleeps at night, works, has a home, etc. "Domicile" is a legal term which refers to a person's legal residence.

Domicile and residence are usually the same, but not always. Some tribal courts have held that domicile includes the traditional home with the clan parent (mother or father) or where the umbilical cord is buried. A child's residence or domicile is the same as its parents. An illegitimate child's domicile is that of its mother. Where a tribal court makes a child a ward of the court, the tribe keeps exclusive jurisdiction, "notwithstanding the residence of domicile of the child."

STATE JURISDICTION

Where an Indian child does not reside or is not domiciled within the child's reservation, the state court must transfer the case to the tribe. There are two exceptions: First, a state court can refuse to transfer if there is "good cause to the contrary." Second, a parent of the child can object to the transfer. The child's tribe must petition the state court for the transfer, and a tribal court can decline to receive the case. Tribes have the right to intervene in a state proceeding at any stage of the case.

CHILDREN'S RIGHTS IN STATE CASES

Where a state court can keep an Indian child's case, that child has these rights:

1. The right of notice to parents, Indian custodians and the child's tribe.

2. Appointment of counsel for indigent (poor) parents or custodians, and for the child, where it is in the child's best interests.

3. Examination of reports or other documents upon which action may be based.

4. Remedial services and rehabilitative programs designed to prevent the breakup of the Indian family, with no foster care placement or termination of parental rights unless those efforts have proved unsuccessful.

5. Clear and convincing evidence, including the testimony of qualified expert witnesses that continued custody by the parent or Indian custodian "is likely to result in serious emotional or physical damage to the child."

6. Evidence beyond a reasonable doubt, supported by testimony of a qualified expert, that the continued custody of the child by

the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

§ 2.5 THE INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION ACT OF 1990

This law is designed to deal with problems of child abuse by:

1. Reports of abuse to children;

2. Establishing a reliable data base for statistics;

3. Authorizing actions necessary to ensure effective child protection in Indian Country;

4. Establishing the Indian Child Abuse Prevention and Treatment Grant Program to treat victims of child sexual abuse;

5. Providing for technical assistance and training for the investigation and treatment of child abuse and neglect;

6. Establishing Indian Child Resource and Family Services Centers in each B.I.A. Area Office (milti-disciplinary teams of personnel with experience and training in the prevention, identification, investigation and treatment of child abuse and neglect;

7. Providing for the treatment and prevention of incidents of family violence;

8. Establishing tribally-operated programs to protect Indian children and reduce the incidents of family violence in Indian Country; and

9. Authorize other actions necessary to ensure effective child protection on Indian reservations.

The law provides for mandatory sharing of reports between local law enforcement and child protective services agencies, and with the F.B.I. It requires written reports and prompt investigations. It allows the sharing of information. It provides that informants will be confidential. It allows the examination of children and interviews without parental consent.

§ 2.6 SUMMARY

These statutes all provide for assistance to children. As such, they create rights for children. They have the further right to expect that tribal and federal officials will promptly and efficiently carry out laws which protect children.

III.

RIGHTS OF BIRTH AND FOSTER PARENTS

§ 3.1 THE INDIAN CIVIL RIGHTS ACT OF 1968

Here again, the due process and equal protection clauses of the ICRA are important. We do not know, because Congress did not say when it enacted the ICRA, the extent to which federal court decisions are binding upon tribal courts or agencies. There are several cases which say that the ICRA must be applied in light of tribal traditions and local conditions. The due process and equal protection clauses of the U.S. Bill of Rights have guaranteed many fundamental protections for parents. Most of them revolve around fairness of treatment in adoptions (e.g. actual notice of a pending adoption) or actions to take the child away. Many involve religious freedom, language rights, education rights and other important and fundamental liberties.

Foster parents have not fared so well under the U.S. Bill of Rights and similar state constitutional provisions. The U.S. Supreme Court has held that foster parents have no legal standing in court to contest the removal of a child under a child placement agreement.

On the other hand, tribal courts have the power to interpret the ICRA in ways that the federal courts do not, to extend rights and privileges to people. While a tribal court cannot deny a fundamental right established under the U.S. Constitution, it can extend rights under tribal law.

§ 3.2 THE INDIAN CHILD WELFARE ACT OF 1978

The ICWA was designed to protect Indian families by returning child custody proceedings to tribal courts. (The definition is discussed above.) The Act protects both parents and Indian custodians. The second includes any Indian person who has legal custody of an Indian child under tribal law or custom (i.e. tribal common law) or under State law or to whom temporary physical care, custody, and control has been transferred by the parent of such child. That includes the tribal custom of having extended family members care for children. Both parents and foster parents (under the "Indian custodian" definition) have the same rights. They include:

1. Notice of proceedings in state court;
2. Notification to the tribe;
3. The right for the tribe to intervene and petition for transfer of the case;
4. The right to object to a transfer to the tribe;
5. The appointment of counsel, if indigent;
6. Examination of reports or other documents;
7. Remedial and rehabilitative services;
8. No foster care placement without clear and convincing evidence and expert testimony (where a state court can retain jurisdiction);
9. No termination of parental rights without proof beyond a reasonable doubt and expert testimony.

§ 3.3 RESTITUTION

A very important federal right in criminal cases is the right to receive payment for injuries caused by a crime. It is popularly called "restitution," but the accurate term is "reparation." It means payment for damages which result from the crime. Many U.S. attorneys look at restitution as a victim's right.

IV.

THE DISCIPLINES IN FEDERAL COURT PROCEEDINGS

§ 4.1 FEDERAL INVESTIGATORS

F.B.I. agents and B.I.A. law enforcement personnel have important roles in the detection, investigation and proof of crimes. As shown, Congress has expressed its intent that child abuse and neglect be a priority issue. As witnesses, federal investigators are the "eyes and ears" of the court. It is they who describe how a crime was committed, who committed it, and how they know those facts. They need the cooperation and support of tribal CPS personnel to detect crime, investigate it and help prosecute it.

Technical assistance offered by the B.I.A. under the Indian Child Protection and Family Violence Prevention Act of 1990 will be extremely important in aiding the process and in prompting federal law enforcement officials to enforce the Major Crimes Act.

§ 4.2 THE UNITED STATES ATTORNEY

The U.S. Attorney for the state, and his or her assistants and deputies, play a very important role due to prosecutorial discretion. The U.S. attorney decides whether to take a case to a grand jury for indictment. The attorney reviews investigation reports, discusses them with the F.B.I. (primarily) and decides whether to prosecute. The U.S. attorney may ask for a followup investigation.

The U.S. attorney may interview tribal officials before having them testify before a grand jury. Likewise, the U.S. attorney works with witnesses to prepare them for trial. That attorney also prosecutes Major Crimes Act cases, as well as offenses under other applicable federal laws.

§ 4.3 OTHER PARTICIPANTS

Federal court prosecutions may require expert witnesses who can testify to crime scene data ("forensic evidence"), medical or psychological conditions (physicians and psychiatrists) or other aspects of a case. CPS personnel may be called upon to testify about their observations and investigations of cases.

V.

FEDERAL LAWS & PROCEDURES IN CRIMINAL AND CIVIL CHILD CASES

§ 5.1 IN GENERAL

The federal laws which may apply to either a criminal or civil abuse or neglect case are massive. They consist of the U.S. Constitution (for basic rights), provisions of the United States Code (statutes enacted by Congress), rules of court, federal agency regulations (on occasion) and written court decisions which interpret the Constitution, statutes, rules, regulations and other court decisions. There are two general kinds of laws: First, laws which establish a rule or prohibition (e.g. a crime). These are "substantive" laws. Second, laws which establish procedures to be followed. These are "procedural" or "adjective" laws.

§ 5.2 FEDERAL CRIMINAL STATUTES

The federal criminal statutes which apply to crimes committed in

Indian Country (see the prior unit for a definition of that term) are the Major Crimes Act (described above), the Indian Country Crimes Act and the Assimilative Crimes Act. The Indian Country Crimes Act covers "racial offenses." That is, offenses committed by Indians against non-Indians and vice versa. It is one of the oldest Indian laws. The Assimilative Crimes Act incorporates state criminal offenses for crimes committed in Indian Country.

§ 5.3 FEDERAL RULES OF CIVIL PROCEDURE

The federal rules of civil procedure are designed to guide parties through proceedings in court. They address things such as complaints, requests to the court for relief during proceedings ("motions"), discovery of information, trial procedure and judgments. In essence, they are designed to make certain that parties have fair notice of each other's cases, an opportunity to prepare for a fair trial, and the ability to have "one's day in court." They are interpreted to allow the right to have the case heard in a reasonable manner. They are supplemented by the Federal Rules of Evidence. These rules are designed to make certain that information which is provided to the court by parties is reliable and fair.

§ 5.4 FEDERAL RULES OF CRIMINAL PROCEDURE

These rules cover all phases of the criminal prosecution, from arrest to sentencing. They assure that the defendant knows the crime charged and the possible penalty, certain information from the prosecution and rights upon conviction. The rules deal with charges, discovery, trial procedure and sentencing.

§ 5.5 CRIMINAL PROCEDURE IN GENERAL

The stages of a criminal proceeding are:

1. Indictment, where the grand jury determines if a crime has been committed, who committed it and whether there is probable cause to charge a given person;

2. The charge, where the facts of the alleged crime are recited in a way to allow the defendant to prepare an intelligent defense;

3. Arraignment, where the defendant is brought before the court to be informed of the charge, advised of rights, and given the opportunity for release pending trial;

4. Discovery, where the defendant has a limited right to access

to evidence in the hands of the prosecutor;

5. Trial, where the government must prove each and every element of the charge and the criminal statute beyond a reasonable doubt; where the defendant has the right to confront witnesses and have witnesses appear for him; where the defendant may remain silent; and where the defendant may argue his case to a jury;

6. Sentencing, where a convicted defendant asks the court to take his or her particular circumstances into account and where the prosecution can present a pre-sentence report on the offense, the defendant's circumstances and a recommended sentence;

7. Appeal, where a convicted defendant may challenge the evidence used against him, the fairness of the trial or the way the court applied the law.

§ 5.6 CIVIL PROCEDURE IN GENERAL

The stages of a civil case are these:

1. Complaint, where there is fair written notice of the facts of the case and the legal theories which support relief by a court;

2. The motion to dismiss, where the complaint does not state a claim recognized by law or it is otherwise defective;

3. Discovery, where the parties can examine each other's evidence, each other or witnesses;

4. Summary judgment, where the information obtained through discovery shows facts which are not in dispute;

5. The trial, where the person who brings the suit (plaintiff) goes first and the court decides whether it is more likely than not the plaintiff's case shows he or she is entitled to relief (the "preponderance of the evidence" rule); and

6. The appeal, where either party may challenge the outcome on the facts, the law applied or the fairness of the trial.

VI.

LESS-INTRUSIVE INTERVENTIONS

§ 6.1 THE INDIAN FAMILY IN FEDERAL LAW

Indian families have gotten specific recognition in federal law. The Indian Child Welfare Act of 1978 clearly respects the Indian family and attempts to prevent its breakup. The Act does so by:

1. Presuming that Indian tribes have jurisdiction over child custody proceedings;

2. Recognizing Indian traditions such as the extended family for rights and placement, as well as customary law;

3. Requiring rehabilitation and treatment programs where a state court retains jurisdiction; and

4. Requiring high proof standards for foster placements or the termination of parental rights (where a state court retains jurisdiction).

The Indian Child Protection and Family Violence Prevention Act of 1990 recognizes the violence caused by domestic violence, child abuse and child neglect. It establishes cooperative reporting procedures and grant programs which are designed to protect Indian families.

§ 6.2 THE LESS-INTRUSIVE INTERVENTION PRINCIPLE

In federal law, as in tribal law, we start with the idea that families must be kept intact, and there can be no governmental intervention without good cause. That good cause must be established by a criminal or civil statute, and it must state specific reasons for taking action.

There is a principle of due process of law which is very important to this concept. It is called the "sliding scale due process rule." What it means is simply this: The more important the right a person has, the more rights and protections are available under law. For example, if you get a speeding ticket with a small fine, your rights are limited. However, if you are charged with a criminal offense or an official wants to remove your child from your home, you have many important rights.

The less-intrusive intervention concept is related to this. Having a child is a very important and fundamental liberty interest in law. A child cannot be taken away without good cause. Even then, the government must take the least drastic action necessary to protect the child. That includes the notion, which is in the Indian Child Welfare Act (which applies to the states) that every available opportunity to treat and rehabilitate parents must be tried first, and fail, before a child is removed from the parent or Indian custodian.

For that reason, CPS personnel must carefully develop their case and make every attempt to work with families before removing children. When removal is in a child's interests, it must be done. However, CPS officials should identify resources and apply them to preserve the integrity of the family by keeping it intact.

* * *

CHILD PROTECTIVE SERVICES AND THE LAW
Questions on the Course Content

THE NATURE OF TRIBAL GOVERNMENT

1. Where do tribal governments get their power and authority?
2. What is an "open charter" government?
3. What does the Indian Reorganization Act of 1934 say about tribal governmental authority?
4. What is the Major Crimes Act?
5. What did the Indian Self-Determination and Education Assistance Act of 1975 do?

WHITE MOUNTAIN APACHE CHILD PROTECTIVE LAWS

1. What is the source of the White Mountain Apache Tribe's governmental power to protect children?
2. What are the major statutes to protect children in the White Mountain Apache Criminal Code?
3. What is child "neglect?"
4. Who is a "dependent" child?
5. What is a "child in need of supervision?"
6. What tribal agencies may receive reports of a neglected or dependent child or a child in need of supervision?
7. What are the duties of the person who receives such a report?
8. Who must report information that a child is neglected or abused?
9. What does the legal principle of the "least restrictive alternative" mean?
10. What are the purposes of a "child protective services protocol?"

RELATIONSHIPS WITH THE FEDERAL GOVERNMENT

1. What is the source of federal authority to deal with child welfare and protection?

2. What is the role of the Federal Bureau of Investigation in dealing with White Mountain Apache officials?

3. What is the role of the United States Attorney for Arizona?

4. Must federal officials honor a tribal court order and cooperate with the operations of the court?

5. In the past, have federal agencies been effective in their efforts to deal with crimes against children and families?

6. What government -- federal, state or tribal -- has the major responsibility to provide child protective services for White Mountain Apache children and families?

7. How does the federal trust responsibility for Indians and their tribes apply to child protective services?

8. What state court proceedings are NOT covered by the Indian Child Welfare Act?

9. What is the role of White Mountain Apache common law (i.e. traditional law) in promoting the Indian Child Welfare Act?

10. Does the Indian Child Welfare Act apply to child protection actions in tribal courts?

BONUS QUESTIONS

1. What is the connection between the White Mountain Apache Tribe and Havana, Cuba?

2. Elsie pawned her concho belt, because she was so broke she couldn't pay for what?

3. Jim is so lazy on weekends, what is it of his that doesn't even work?

4. Does the White Mountain Apache Tribe have a treaty with the United States?

5. What historical force is represented by the fact that Dr. Carlos Montezuma was sold on a street corner in Scottsdale?

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(c) SAVINGS CLAUSE.—Nothing in this title shall be construed to limit the authority of the Secretary to enter into cooperative agreements otherwise authorized by law.

25 USC 3116.

SEC. 317. OBLIGATED SERVICE; BREACH OF CONTRACT.

Regulations.

(a) OBLIGATED SERVICE.—Where an individual enters into an agreement for obligated service in return for financial assistance under any provision of this title, the Secretary shall adopt such regulations as are necessary to provide for the offer of employment to the recipient of such assistance as required by such provision. Where an offer of employment is not reasonably made, the regulations shall provide that such service shall no longer be required.

(b) BREACH OF CONTRACT; REPAYMENT.—Where an individual fails to accept a reasonable offer of employment in fulfillment of such obligated service or unreasonably terminates or fails to perform the duties of such employment, the Secretary shall require a repayment of the financial assistance provided, prorated for the amount of time of obligated service performed, together with interest on such amount which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

25 USC 3117.

SEC. 318. AUTHORIZATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

25 USC 3118.

SEC. 319. REGULATIONS.

Except as otherwise provided by this title, the Secretary is directed to promulgate final regulations for the implementation of the title within eighteen months from the date of its enactment. All regulations promulgated pursuant to this title shall be developed by the Secretary with the participation of the affected Indian tribes.

25 USC 3119.

SEC. 320. SEVERABILITY.

If any provision of this title, or the application of any provision of this title to any person or circumstance, is held invalid, the application of such provision or circumstance and the remainder of this title shall not be affected thereby.

25 USC 3120.

SEC. 321. TRUST RESPONSIBILITY.

Nothing in this title shall be construed to diminish or expand the trust responsibility of the United States toward Indian forest lands, or any legal obligation or remedy resulting therefrom.

Indian Child Protection and Family Violence Prevention Act.
25 USC 3201 note.

TITLE IV—INDIAN CHILD PROTECTION

SEC. 401. SHORT TITLE.

This title may be cited as the "Indian Child Protection and Family Violence Prevention Act".

25 USC 3201.

SEC. 402. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress, after careful review of the problem of child abuse on Indian reservations and the historical and special relationship of the Federal Government with Indian people,

(1) finds that—

(A) incidents of abuse of children on Indian reservations are grossly underreported;

(B) such underreporting is often a result of the lack of a mandatory Federal reporting law;

(C) multiple incidents of sexual abuse of children on Indian reservations have been perpetrated by persons employed or funded by the Federal Government;

(D) Federal Government investigations of the background of Federal employees who care for, or teach, Indian children are often deficient;

(E) funds spent by the United States on Indian reservations or otherwise spent for the benefit of Indians who are victims of child abuse or family violence are inadequate to meet the growing needs for mental health treatment and counseling for victims of child abuse or family violence and their families; and

(F) there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and the United States has a direct interest, as trustee, in protecting Indian children who are members of, or are eligible for membership in, an Indian tribe; and

(2) declares that two major goals of the United States are to—

(A) identify the scope of incidents of abuse of children and family violence in Indian country and to reduce such incidents; and

(B) provide funds for mental health treatment for Indian victims of child abuse and family violence on Indian reservations.

(b) PURPOSE.—The purposes of this title are to—

(1) require that reports of abused Indian children are made to the appropriate authorities in an effort to prevent further abuse;

(2) establish a reliable data base for statistical purposes and to authorize a study to determine the need for a central registry for reported incidents of abuse;

(3) authorize such other actions as are necessary to ensure effective child protection in Indian country;

Establishment

(4) establish the Indian Child Abuse Prevention and Treatment Grant Program to provide funds for the establishment on Indian reservations of treatment programs for victims of child sexual abuse;

(5) provide for technical assistance and training related to the investigation and treatment of cases of child abuse and neglect;

(6) establish Indian Child Resource and Family Services Centers in each Bureau of Indian Affairs Area Office which will consist of multi-disciplinary teams of personnel with experience and training in the prevention, identification, investigation, and treatment of child abuse and neglect;

(7) provide for the treatment and prevention of incidents of family violence;

(8) establish tribally operated programs to protect Indian children and reduce the incidents of family violence in Indian country; and

(9) authorize other actions necessary to ensure effective child protection on Indian reservations.

SEC. 103. DEFINITIONS.

25 USC 3202.

For the purposes of this title, the term—

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(1) "Bureau" means the Bureau of Indian Affairs of the Department of the Interior;

(2) "child" means an individual who—

(A) is not married, and

(B) has not attained 18 years of age;

(3) "child abuse" includes but is not limited to—

(A) any case in which—

(i) a child is dead or exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling, and

(ii) such condition is not justifiably explained or may not be the product of an accidental occurrence; and

(B) any case in which a child is subjected to sexual assault, sexual molestation, sexual exploitation, sexual contact, or prostitution;

(4) "child neglect" includes but is not limited to, negligent treatment or maltreatment of a child by a person, including a person responsible for the child's welfare, under circumstances which indicate that the child's health or welfare is harmed or threatened thereby;

(5) "family violence" means any act, or threatened act, of violence, including any forceful detention of an individual, which—

(A) results, or threatens to result, in physical or mental injury, and

(B) is committed by an individual against another individual—

(i) to whom such person is, or was, related by blood or marriage or otherwise legally related, or

(ii) with whom such person is, or was, residing;

(6) "Indian" means any individual who is a member of an Indian tribe;

(7) "Indian child" has the meaning given to such term by section 4(4) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(4));

(8) "Indian country" has the meaning given to such term by section 1151 of title 18, United States Code;

(9) "Indian reservation" means any Indian reservation, public domain Indian allotment, former Indian reservation in Oklahoma, or lands held by incorporated Native groups, regional corporations, or village corporations under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

(10) "Indian tribe" and "tribal organization" have the respective meanings given to each of such terms under section 4 of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b);

(11) "inter-tribal consortium" means a partnership between—

(A) an Indian tribe or tribal organization of an Indian tribe, and

(B) one or more Indian tribes or tribal organizations of one or more other Indian tribes;

(12) "local child protective services agency" means that agency of the Federal Government, of a State, or of an Indian tribe that has the primary responsibility for child protection on any Indian reservation or within any community in Indian country;

(13) "local law enforcement agency" means that Federal, tribal, or State law enforcement agency that has the primary responsibility for the investigation of an instance of alleged child abuse within the portion of Indian country involved;

(14) "persons responsible for a child's welfare" means any person who has legal or other recognized duty for the care and safety of a child, including—

(A) any employee or volunteer of a children's residential facility, and

(B) any person providing out-of-home care, education, or services to children;

(15) "related assistance"—

(A) includes counseling and self-help services to abusers, victims, and dependents in family violence situations (which shall include counseling of all family members to the extent feasible) and referrals for appropriate health-care services (including alcohol and drug abuse treatment), and

(B) may include food, clothing, child care, transportation, and emergency services for victims of family violence and their dependents;

(16) "Secretary" means the Secretary of the Interior;

(17) "shelter" means the provision of temporary refuge and related assistance in compliance with applicable Federal and tribal laws and regulations governing the provision, on a regular basis, of shelter, safe homes, meals, and related assistance to victims of family violence or their dependents; and

(18) "Service" means the Indian Health Service of the Department of Health and Human Services.

SEC. 404. REPORTING PROCEDURES.

25 USC 3203.

(a) Report to Local Law Enforcement Agency.—(1) Chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1169. Reporting of child abuse

"(a) Any person who—

"(1) is a—

"(A) physician, surgeon, dentist, podiatrist, chiropractor, nurse, dental hygienist, optometrist, medical examiner, emergency medical technician, paramedic, or health care provider,

"(B) teacher, school counselor, instructional aide, teacher's aide, teacher's assistant, or bus driver employed by any tribal, Federal, public or private school,

"(C) administrative officer, supervisor of child welfare and attendance, or truancy officer of any tribal, Federal, public or private school,

"(D) child day care worker, headstart teacher, public assistance worker, worker in a group home or residential or day care facility, or social worker,

"(E) psychiatrist, psychologist, or psychological assistant,

"(F) licensed or unlicensed marriage, family, or child counselor,

"(G) person employed in the mental health profession, or

"(H) law enforcement officer, probation officer, worker in a juvenile rehabilitation or detention facility, or person employed in a public agency who is responsible for enforcing statutes and judicial orders;

"(2) knows, or has reasonable suspicion, that—

"(A) a child was abused in Indian country, or

"(B) actions are being taken, or are going to be taken, that would reasonably be expected to result in abuse of a child in Indian country; and

"(3) fails to immediately report such abuse or actions described in paragraph (2) to the local child protective services agency or local law enforcement agency,

shall be fined not more than $5,000 or imprisoned for not more than 6 months or both.

"(b) Any person who—

"(1) supervises, or has authority over, a person described in subsection (a)(1), and

"(2) inhibits or prevents that person from making the report described in subsection (a),

shall be fined not more than $5,000 or imprisoned for not more than 6 months or both.

"(c) For purposes of this section, the term—

"(1) 'abuse' includes—

"(A) any case in which—

"(i) a child is dead or exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling, and

"(ii) such condition is not justifiably explained or may not be the product of an accidental occurrence; and

"(B) any case in which a child is subjected to sexual assault, sexual molestation, sexual exploitation, sexual contact, or prostitution;

"(2) 'child' means an individual who—

"(A) is not married, and

"(B) has not attained 18 years of age;

"(3) 'local child protective services agency' means that agency of the Federal Government, of a State, or of an Indian tribe that has the primary responsibility for child protection on any Indian reservation or within any community in Indian country; and

"(4) 'local law enforcement agency' means that Federal, tribal, or State law enforcement agency that has the primary responsibility for the investigation of an instance of alleged child abuse within the portion of Indian country involved.

"(d) Any person making a report described in subsection (a) which is based upon their reasonable belief and which is made in good faith shall be immune from civil or criminal liability for making that report.".

(2) The table of contents for chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1169. Reporting of child abuse.".

(b) NOTIFICATION OF CHILD ABUSE REPORTS.—(1) When a local law enforcement agency or local child protective services agency receives an initial report from any person of—

(A) the abuse of a child in Indian country, or

(B) actions which would reasonably be expected to result in abuse of a child in Indian country, the receiving agency shall immediately notify appropriate officials of the other agency of such report and shall also submit, when prepared, a copy of the written report required under subsection (c) to such agency.

(2) Where a report of abuse involves an Indian child or where the alleged abuser is an Indian and where a preliminary inquiry indicates a criminal violation has occurred, the local law enforcement agency, if other than the Federal Bureau of Investigation, shall immediately report such occurrence to the Federal Bureau of Investigation.

(c) WRITTEN REPORT OF CHILD ABUSE.—(1) Within 36 hours after receiving an initial report described in subsection (b), the receiving agency shall prepare a written report which shall include, if available—

(A) the name, address, age, and sex of the child that is the subject of the report;

(B) the grade and the school in which the child is currently enrolled;

(C) the name and address of the child's parents or other person responsible for the child's care;

(D) the name and address of the alleged offender;

(E) the name and address of the person who made the report to the agency;

(F) a brief narrative as to the nature and extent of the child's injuries, including any previously known or suspected abuse of the child or the child's siblings and the suspected date of the abuse; and

(G) any other information the agency or the person who made the report to the agency believes to be important to the investigation and disposition of the alleged abuse.

(2)(A) Any local law enforcement agency or local child protective services agency that receives a report alleging abuse described in section 503(3) shall immediately initiate an investigation of such allegation and shall take immediate, appropriate steps to secure the safety and well-being of the child or children involved.

(B) Upon completion of the investigation of any report of alleged abuse that is made to a local law enforcement agency or local child protective services agency, such agency shall prepare a final written report on such allegation.

(d) CONFIDENTIALITY OF INFORMANT.—The identity of any person making a report described in subsection (b)(1) shall not be disclosed, without the consent of the individual, to any person other than a court of competent jurisdiction or an employee of an Indian tribe, a State or the Federal Government who needs to know the information in the performance of such employee's duties.

SEC. 405. CENTRAL REGISTRY.

25 USC 3204.

(a) PREPARATION OF STUDY.—The Secretary, in consultation with the Secretary of Health and Human Services and the Attorney General of the United States, is hereby authorized and directed to prepare a written study on the feasibility of, and need for, the establishment of a Central Register for reports or information on the abuse of children in Indian country.

(b) CONTENT OF STUDY.—The study conducted pursuant to subsection (a) shall include, but shall not be limited to—

(1) the need for, and purpose of, a Central Register;

(2) the examination of due process implication of the maintenance of such a register;

(3) the extension of access to information contained in the register;

(4) the need and process for expunging information from the register;

(5) the types, and duration of maintenance, of information in the register; and

(6) the classes of persons who should be covered by such register.

(c) The Secretary shall complete the study conducted pursuant to this section and shall submit such study, together with recommendations and draft legislation to implement such recommendations, to the Congress within 180 days after the date of enactment of this title.

25 USC 3205.

SEC. 406. CONFIDENTIALITY.

Pursuant to section 552a of title 5, United States Code, the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g), or any other provision of law, agencies of any Indian tribe, of any State, or of the Federal Government that investigate and treat incidents of abuse of children may provide information and records to those agencies of any Indian tribe, any State, or the Federal Government that need to know the information in performance of their duties. For purposes of this section, Indian tribal governments shall be treated the same as other Federal Government entities.

25 USC 3206.

SEC. 407. WAIVER OF PARENTAL CONSENT.

(a) EXAMINATIONS AND INTERVIEWS.—Photographs, x-rays, medical examinations, psychological examinations, and interviews of an Indian child alleged to have been subject to abuse in Indian country shall be allowed without parental consent if local child protective services or local law enforcement officials have reason to believe the child has been subject to abuse.

(b) INTERVIEWS BY LAW ENFORCEMENT AND CHILD PROTECTIVE SERVICES OFFICIALS.—In any case in which officials of the local law enforcement agency or local child protective services agency have reason to believe that an Indian child has been subject to abuse in Indian country, the officials of those agencies shall be allowed to interview the child without first obtaining the consent of the parent, guardian, or legal custodian.

(c) PROTECTION OF CHILD.—Examinations and interviews of a child who may have been the subject of abuse shall be conducted under such circumstances and with such safeguards as are designed to minimize additional trauma to the child and, where time permits, shall be conducted with the advise, or under the guidance, of a local multidisciplinary team established pursuant to section 411 or, in the absence of a local team, a multidisciplinary team established pursuant to section 410.

(d) COURT ORDERS.—Upon a finding of reasonable suspicion that an Indian child has been the subject of abuse in Indian country, a Federal magistrate or United States District Court may issue an order enforcing any provision of this section.

SEC. 408. CHARACTER INVESTIGATIONS. 25 USC 3207.

(a) BY SECRETARY OF THE INTERIOR AND THE SECRETARY OF HEALTH AND HUMAN SERVICES.—The Secretary and the Secretary of Health and Human Services shall—

(1) compile a list of all authorized positions within their respective departments the duties and responsibilities of which involve regular contact with, or control over, Indian children,

(2) conduct an investigation of the character of each individual who is employed, or is being considered for employment, by the respective Secretary in a position listed pursuant to paragraph (1), and

(3) prescribe by regulations minimum standards of character that each of such individuals must meet to be appointed to such positions.

(b) CRIMINAL RECORDS.—The minimum standards of character that are to be prescribed under this section shall ensure that none of the individuals appointed to positions described in subsection (a) have been found guilty of, or entered a plea of nolo contendere or guilty to, any offense under Federal, State, or tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact or prostitution; or crimes against persons. Regulations.

(c) INVESTIGATIONS BY INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—Each Indian tribe or tribal organization that receives funds under the Indian Self-Determination and Education Assistance Act or the Tribally Controlled Schools Act of 1988 shall—

(1) conduct an investigation of the character of each individual who is employed, or is being considered for employment, by such tribe or tribal organization in a position that involves regular contact with, or control over, Indian children, and

(2) employ individuals in those positions only if the individuals meet standards of character, no less stringent than those prescribed under subsection (a), as the Indian tribe or tribal organization shall establish.

SEC. 409. INDIAN CHILD ABUSE TREATMENT GRANT PROGRAM. 25 USC 3208.

(a) ESTABLISHMENT OF GRANT PROGRAM.—The Secretary of Health and Human Services, acting through the Service and in cooperation with the Bureau, shall establish an Indian Child Abuse Treatment Grant Program that provides grants to any Indian tribe or intertribal consortium for the establishment on Indian reservations of treatment programs for Indians who have been victims of child sexual abuse.

(b) GRANT APPLICATIONS.—(1) Any Indian tribe or intertribal consortium may submit to the Secretary of Health and Human Services an application for a grant under subsection (a).

(2) Any application submitted under paragraph (1)—

(A) shall be in such form as the Secretary of Health and Human Services may prescribe;

(B) shall be submitted to such Secretary on or before the date designated by such Secretary; and

(C) shall specify—

(i) the nature of the program proposed by the applicant,

(ii) the data and information on which the program is based,

(iii) the extent to which the program plans to use or incorporate existing services available on the reservation, and

(iv) the specific treatment concepts to be used under the program.

(c) MAXIMUM GRANT AMOUNT.—The maximum amount of any grant awarded under subsection (a) shall not exceed $500,000.

(d) GRANT ADMINISTRATION AND FINAL REPORT.—Each recipient of a grant awarded under subsection (a) shall—

(1) furnish the Secretary of Health and Human Services with such information as such Secretary may require to—

(A) evaluate the program for which the grant is made, and

(B) ensure that the grant funds are expended for the purposes for which the grant was made, and

(2) submit to such Secretary at the close of the term of the grant a final report which shall include such information as the Secretary may require.

Appropriation authorization

(e) there is hereby authorized to be appropriated to carry out the provisions of this section $10,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995.

25 USC 3209

SEC. 110. INDIAN CHILD RESOURCE AND FAMILY SERVICES CENTERS.

(a) ESTABLISHMENT.—The Secretary shall establish within each area office of the Bureau an Indian Child Resource and Family Services Center.

(b) MEMORANDUM OF AGREEMENT.—The Secretary and the Secretary of Health and Human Services shall enter into a Memorandum of Agreement which provides for the staffing of the Centers established under this section.

(c) CENTER STAFFING.—Each Center established under subsection (a) shall be staffed by a multidisciplinary team of personnel with experience and training in prevention, identification, investigation, and treatment of incidents of family violence, child abuse, and child neglect.

(d) CENTER RESPONSIBILITIES AND FUNCTIONS.—Each Center established under subsection (a) shall—

(1) provide advice, technical assistance, and consultation to Indian tribes, tribal organizations, and inter-tribal consortia upon request;

(2) provide training to appropriate personnel of Indian tribes, tribal organizations, the Bureau and the Service on the identification and investigation of cases of family violence, child abuse, and child neglect and, to the extent practicable, coordinate with institutions of higher education, including tribally controlled community colleges, to offer college-level credit to interested trainees;

(3) develop training materials on the prevention, identification, investigation, and treatment of incidents of family violence, child abuse, and child neglect for distribution to Indian tribes and to tribal organizations;

(4) develop recommendations to assist Federal and tribal personnel to respond to cases of family violence, child abuse, and child neglect; and

(5) develop policies and procedures for each agency office of the Bureau and service unit of the Service within the area which, to the extent feasible, comply with tribal laws pertaining to cases of family violence, child abuse, and child neglect, including any criminal laws, and which provide for maximum cooperation with the enforcement of such laws.

(e) Multidisciplinary Team Personnel.—Each multidisciplinary team established under this section shall include, but is not limited to, personnel with a background in—

(1) law enforcement,
(2) child protective services,
(3) juvenile counseling and adolescent mental health, and
(4) domestic violence.

(f) Center Advisory Board.—The Secretary, in consultation with the Secretary of Health and Human Services, shall establish, for each Indian Child Resource and Family Services Center, an advisory board to advise and assist such Center in carrying out its activities under this Act. Each advisory board shall consist of 7 members appointed by the Secretary from Indian tribes and human service providers served by an area office of the Bureau. Members shall serve without compensation, but may be reimbursed for travel and other expenses while carrying out the duties of the board. The advisory board shall assist the Center in coordinating programs, identifying training materials, and developing policies and procedures relating to family violence, child abuse, and child neglect.

(g) Application of the Indian Self-Determination Act to Centers.—Indian Child Resource and Family Services Centers established under subsection (a) shall be subject to the provisions of the Indian Self-Determination Act. If a Center is located in an area office of the Bureau which serves more than one Indian tribe, any application to enter into a contract to operate the Center pursuant to such Act must have the consent of each of the other tribes to be served under the contract, except that, in the Juneau Area, only the consent of such tribes or tribal consortia that are engaged in contracting of Indian Child Protection and Family Violence Prevention programs pursuant to such Act shall be required. This section shall not preclude the designation of an existing child resource and family services center operated by a tribe or tribal organization as a Center if all of the tribes to be served by the Center agree to such designation.

(h) Appropriations.—There are authorized to be appropriated to carry out the provisions of this section $3,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995.

SEC. 411. INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION PROGRAM. 25 USC 3210.

(a) Establishment.—The Secretary shall establish within the Bureau an Indian Child Protection and Family Violence Prevention Program to provide financial assistance to any Indian tribe, tribal organization, or inter-tribal consortium for the development of an Indian Child Protection and Family Violence Prevention program.

(b) Indian Self-Determination Act Agreements.—The Secretary is authorized to enter into agreements with Indian tribes, tribal organizations, or inter-tribal consortia pursuant to the Indian Self-Determination Act for the establishment of Indian Child Protection and Family Violence Prevention programs on Indian reservations.

(c) Investigation and Treatment and Prevention of Child Abuse and Family Violence.—An Indian tribe operating an Indian Child Protection and Family Violence Prevention program established under this section shall designate the agency or officials which shall be responsible—

(1) for the investigation of reported cases of child abuse and child neglect; and

(2) for the treatment and prevention of incidents of family violence; and

(3) for the provision of immediate shelter and related assistance for victims of family violence and their dependents.

(d) Program Responsibilities and Functions.—Funds provided pursuant to this section may be used for—

(1) the establishment of a child protective services program which may include—

(A) the employment of child protective services staff to investigate cases of child abuse and child neglect,

(B) training programs for child protective services personnel, law enforcement personnel, and judicial personnel in the investigation, prevention, and treatment of cases of child abuse and child neglect, and

(C) purchase of equipment to assist in the investigation of cases of child abuse and child neglect;

(2) the establishment of a family violence prevention and treatment program which may include—

(A) the employment of family violence prevention and treatment staff to respond to incidents of family violence,

(B) the provision of immediate shelter and related assistance for victims of family violence and their dependents,

(C) training programs for family violence prevention and treatment personnel, law enforcement personnel, and judicial personnel in the investigation, prevention, and treatment of cases of family violence; and

(D) construction or renovation of facilities for the establishment of family violence shelters;

(3) the development and implementation of a multidisciplinary child abuse investigation and prosecution program which may—

(A) coordinate child abuse prevention, investigation, prosecution, treatment, and counseling services,

(B) develop protocols among related agencies to ensure that investigations of child abuse cases, to the extent practicable, minimize the trauma to the child victim, and

(C) provide for the coordination and cooperation of law enforcement agencies, courts of competent jurisdiction, and other tribal, Federal, and State agencies through intergovernmental or interagency agreements that define and specify each party's responsibilities;

(4) the development of tribal child protection codes and regulations;

(5) the establishment of training programs for—

(A) professional and paraprofessional personnel in the fields of medicine, law, education, social work, and other relevant fields who are engaged in, or intend to work in, the field of prevention, identification, investigation, and treatment of family violence, child abuse, and child neglect,

(B) instruction in methods of protecting children from abuse and neglect for persons responsible for the welfare of Indian children, including parents of, and persons who work with, Indian children, or

(C) educational, identification, prevention and treatment services for child abuse and child neglect in cooperation with preschool, elementary and secondary schools, or tribally controlled community colleges (within the meaning of section 2 of the Tribally Controlled Community College Act of 1978 (25 U.S.C. 1801));

(6) other community education efforts for tribal members (including school children) regarding issues of family violence, child abuse, and child neglect; and

(7) such other innovative and culturally relevant programs and projects as the Secretary may approve, including programs and projects for—

(A) parental awareness and self-help,

(B) prevention and treatment of alcohol and drug-related family violence, child abuse, and child neglect, or

(C) home health visitor programs,

that show promise of successfully preventing and treating cases of family violence, child abuse, and child neglect.

(f) Secretarial Regulations; Base Support Funding.—(1) The Secretary, with the participation of Indian tribes, shall establish, and promulgate by regulations, a formula which establishes base support funding for Indian Child Protection and Family Violence Prevention programs.

(2) In the development of regulations for base support funding for such programs, the Secretary shall develop, in consultation with Indian tribes, appropriate caseload standards and staffing requirements which are comparable to standards developed by the National Association of Social Work, the Child Welfare League of America and other professional associations in the field of social work and child welfare. Each level of funding assistance shall correspond to the staffing requirements established by the Secretary pursuant to this section.

(3) Factors to be considered in the development of the base support funding formula shall include, but are not limited to—

(A) projected service population of the program;

(B) projected service area of the program;

(C) projected number of cases per month; and

(D) special circumstances warranting additional program resources, such as high incidence of child sexual abuse, high incidence of violent crimes against women, or the existence of a significant victim population within the community.

(4) The formula established pursuant to this subsection shall provide funding necessary to support—

(A) one child protective services or family violence caseworker, including fringe benefits and support costs, for each tribe; and

(B) an additional child protective services and family violence caseworker, including fringe benefits and support costs, for each level of assistance for which an Indian tribe qualifies.

(5) In any fiscal year that appropriations are not sufficient to fully fund Indian Child Protection and Family Violence Prevention programs at each level of assistance under the formula required to be established in this subsection, available funds for each level of assistance shall be evenly divided among the tribes qualifying for that level of assistance.

(g) Maintenance of Effort.—Services provided under contracts made under this section shall supplement, not supplant, services from any other funds available for the same general purposes, including, but not limited to—

(1) treatment, including, but not limited to—

(A) individual counseling,

(B) group counseling, and

(C) family counseling;

(2) social services and case management;

(3) training available to Indian tribes, tribal agencies, and Indian organizations regarding the identification, investigation, prevention, and treatment of family violence, child abuse, and child neglect; and

(4) law enforcement services, including investigations and prosecutions.

(h) CONTRACT EVALUATION AND ANNUAL REPORT.—Each recipient of funds awarded pursuant to subsection (a) shall—

(1) furnish the Secretary with such information as the Secretary may require to—

(A) evaluate the program for which the award is made, and

(B) ensure that funds are expended for the purposes for which the award was made; and

(2) submit to the Secretary at the end of each fiscal year an annual report which shall include such information as the Secretary may require.

(i) APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section $30,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995.

25 USC 3211.

SEC. 412. REPORT.

On or before March 1, 1991, and March 1 of each calendar year thereafter, the Secretary shall submit to the Congress a report involving the administration of this title during the calendar year preceding the calendar year in which such report is submitted.

Indian Health Care Amendments of 1990.
Mental health programs.
25 USC 1601 note.

TITLE V—INDIAN HEALTH CARE

SEC. 501. SHORT TITLE.

This title may be cited as the "Indian Health Care Amendments of 1990".

SEC. 502. REFERENCES.

Except as may otherwise be specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

SEC. 503. MENTAL HEALTH PREVENTION AND TREATMENT SERVICES.

25 USC 1621h note.

(a) PURPOSES.—The purposes of this section are to—

(1) authorize and direct the Indian Health Service to develop a comprehensive mental health prevention and treatment program;

(2) provide direction and guidance relating to mental illness and dysfunctional and self-destructive behavior, including child abuse and family violence, to those Federal, tribal, State, and local agencies responsible for programs in Indian communities in areas of health care, education, social services, child and

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UNIT IV

White Mountain Apache CPS Processes, Resources and Systems

Prepared By:

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TABLE OF CONTENTS

Training Outline 246

Course Outline 255

I. Child Protective Service Process, Resource and Systems 261

II. Child Protective Services Process - A Model Program 262

III. Child Protective Services Process - Monitoring, Evaluation and Termination 274

IV. Recording 280

V. Safety Procedures for Child Protective Services Worker 282

VI. Case Examples 284

CHILD PROTECTIVE SERVICES

Gloria Gorman-Fohrenkam, MSW

UNIT IV: CPS PROCESSES, RESOURCES AND SYSTEMS

I. Case Management as Applied to Child Protective Services and Child Welfare

A. Definition of Case Management
- series of related decisions, actions and processes
- mutually agreed goals
- client-centered
- assess and negotiate appropriate services for the client

B. The Elements of Case Management

1. Intake Process
   - data gathering
   - use of interviewing method

2. Assessment Process
   - identification of need or problem
   - definition and purpose
   - responsibility
   - information gathering and documentation

3. Engaging and Motivating the Client
   - client participation in case planning
   - build on family strengths
   - family enpowerment

4. Case Planning
   - guidelines for developing a case plan
   - case plan components
   - case plan objectives
   - tasks
   - case staffings
   - social summaries

5. Case Plan Implementation
   - arrangement of services
   - direct service delivery

6. Monitoring and Evaluation
    - monitor progress toward achievement of case plan goals
    - utilize time frames to achieve goals
    - ensure linkage and resources for the client are available and appropriate

7. Case Closure
    - reasons for closure
    - actions prior to closure
    - follow-up contacts after closure

C. Tools for Skill Building

1. Interviewing
    a. Three stages of interviewing process
    b. Skills needed
        - observation
        - listening
        - questioning
        - focusing, guiding and interpreting
        - climate setting
    c. Guidelines for interviewing abused children

2. Assessment
    a. Data collecting to identify problem
    b. Family history of domestic violence and alcohol/substance abuse
    c. Family strengths

3. Risk Assessment Tool

    Aids and supports case managment decisions to:
    - allow children to remain in their home
    - remove children from their homes based upon degree of risk and lack of support and/or resources
    - return child home

    Aids in defining what needs to change and what supports and services are needed

EXERCISE: Review and assessment tool for CPS cases and utilize a case example.

4. Social History
    a. Purpose: determines patterns for behavior that are well-established and serves as a good predictor of future behaviors
    b. Aids in the development of the most appropriate case plan
    c. Components of a social history
    d. How to write clear, concise history

EXERCISE: Using a model, participants will write a brief social history on a client or family they are presently serving.

5. Case Staffings
    a. Purpose
    b. Participants
        - multidisciplinary teams
    c. Components of effective staffings
    d. Required staffings:
        - court reviews
        - foster care review board or administrative review
        - placement staffings
    e. Tasks
        - scheduling
        - documentation of staffings
    f. Confidentiality of material discussed

6. Case Documentation and Court Reports
    a. Purpose
    b. Types of court recordings
    c. Types of court reports
    d. Confidentiality of records
    e. Supervisory review of case records - quality assurance

CHILD PROTECTIVE SERVICES PROCESS: A MODEL PROGRAM

An effective CPS program incorporates the following processes:

- Intake
- Investigation
- Contact with Child and Caretakers
- Determining Validity of CPS Report
- Decision Making of Removal of the Child
- Placement of the Child

A. INTAKE

1. Receiving a CPS Report
    - who can report and those who are mandated to report
    - where is the report made
    - what agency is responsible for receiving the reports

2. Screening of the Report
    a. Prioritization of Action Process
        - Priority I: Life Threatening/Emergency Situation
        - Priority II: Serious Physical Abuse
        - Priority III: Not Life Threatening but Dangerous
        - Priority IV: Substandard Care that Can Become Dangerous

    b. Intake Decision Making Factors in Choosing the Priority of a CPS Report
        - age of the child
        - possible need to shelter child
        - prior reports / previous history
        - time lapse from incident to report
        - reliability and motivation of the reporter
        - family dynamics
        - geographical location regarding the climatic variables

    c. Skills Necessary for Effective Intake
        - good communication
        - worker ability to be non-judgemental
        - assessment
        - data collection

d. Decision-Making Process

At Intake

- is report appropriate for CPS
- does not require immediate emergency response
- assess motives of reporter

Who is involved in the Decision-Making Process

- CPS worker, case manager
- CPS supervisor, administrator
- any mandated reporter
- multidisciplinary team

B. INVESTIGATION

1. Purpose: to determine if allegations are found valid, invalid or undetermined. Protection of the child.

2. Process of conducting an investigation

a. Worker prepares to collect data by determining:

- what specific information is needed to complete the investigation
- what sources can provide information
- how will the information be obtained from the child and caretakers

b. Worker prepares for intial contact

c. Deciding if the investigation will be a joint process with law enforcement

3. Initiating Contact with the Child

a. Recommended

- the alleged abusive caretaker or person should not be present during the interview with the child
- interview is conducted privately in a non-threatening situation. If the child requests another individual be present, the interview should be conducted with the individual present.
- video taping alleged sexual abuse victims

b. Interview child and siblings utilizing the Guidelines to Interviewing Children process

c. Informs child of allegations and the need to investigate

d. Allows child to ask questions and express their emotional reactions to the investigation

4. Initiating Contact with the Caretakers
    a. Coordination with law enforcement when criminal investigation is in process
    b. Informs caretaker of allegations and his legal rights pertaining to CPS investigations
    c. Informs caretaker of the task to gather information

5. Determining Validity of the Report
    a. Comparison of data gathered from observations, records, interviews
    b. Reviews the evidentiary facts and all relevant data gathered during the investigation
    c. Utilization of CPS Risk Assessment Factors to assist in determining level of risk to the child

6. Determining the Need for Immediate Crisis Intervention or Removal of the Child
    a. Assesses the risk factors to the child and if they warrant immediate removal
    b. Preparation of the child for emergency placement

7. Removal of the Child
    a. Decision-making process
        - who is involved
        - data to be used in decision
        - legal status of child
    b. Guidelines
        - based upon the assessment of imminent danger to the child, removal may be warranted
    c. Alternatives to Removal
        - in-home services to the family
        - placement with relatives, with or without services
        - placement with other appropriate custodian
        - volunteer foster care placement

8. Out of Home Placements
    a. Other natural, adoptive, or legal parents
    b. Foster care
    c. Licensed group care
    d. Relative placements

UNIT IV.3 MONITORING, EVALUATION AND TERMINATION

I. Case Planning

A. Guidelines for the development of a case plan

Case plans are developed according to the following principles:

1. least restrictive intervention, family-like setting
2. close proximity to child's family
3. consistent with child's cultural, racial and ethnic background where possible
4. maintain the child in home if the child is not in imminent danger
5. reunify the family as quickly as possible
6. develop alternative plan if family reunification is not possible

B. Components of the Case Plan / Written Agreement

1. Goal: permanent plan for the child and a target date to be established
2. The goal is selected on the basis of its permanency. Goals in their order of consideration would be:
    - remain with own family
    - return to own family
    - placement with relatives
    - adoption
    - legal guardianship
    - long-term foster care
    - independent living
3. Objectives: results or accomplishments which need to be achieved. Objectives need to:
    - reflect a desired outcome which is observable, measurable, clear and specific
    - relate to changing abusive or neglectful behavior
    - be written in positive language
    - be attainable

C. Permanency Planning

1. Remain with own family
2. Return to own family
3. Placement with relatives
4. Adoption
5. Legal guardianship
6. Long-term foster care
7. Independent living

D. Plan Implementation
1. Delivery of services
a. direct services
b. contracted services
c. community services
2. Family Preservation Services
a. in-home services
b. short-term services
c. small caseloads
d. goal-oriented, time limited
3. Specialized Services
a. therapeutic foster homes
b. community group homes
c. residential treatment centers
d. psychiatric hospitals
e. independent living

E. Specific Therapies for Abusing Families
1. Individual
2 Group
3. Marital and family
4. Family

F. Therapies for Children
1. Play therapy
2. Individual
3. Group
4. Art

G. Monitoring and Evaluation
1. Definition and Purpose
2. Evaluation Process
a. measures the efficiency and effectiveness
b. specific, separate actions accomplished in relations to objectives and tasks
c. mediation of disputes and disagreements between clients, providers and case managers
3. Case Manager's Responsibilities
a. following time frames
b. identifying problems related to service delivery
c. remedying problems with clients, providers and case managers
d. charting progress or lack of
e. identifying major setbacks or re-abusing behaviors
f. revising and updating the case plan
g. written documentation

CHILD PROTECTIVE SERVICES TRAINING
COURSE OUTLINE

UNIT IV: CPS PROCESSES, RESOURCES AND SYSTEMS

DESCRIPTION:

This unit will provide a model of the White Mountain Apache Child Protective Services program, step-by-step procedures, CPS interviewing techniques, CPS assessment tools, intervention techniques and child placement activities.

COURSE OBJECTIVES:

1. Participants will identify and describe White Mountain Apache CPS processes and procedures along with the relationships that are necessary when working with police, school, hospital and courts, etc.
2. Participants will identify and apply intervention techniques that enhance relationships and help stabilize families in crises.
3. Participants will identify and effectively apply interviewing techniques to obtain information needed to serve the clients needs.
4. Participants will identify and apply skills which allow for accurate assessment of individual and family strengths.
5. Participants will assess alcohol/drug dependency, for referral purposes.
6. Participants will explore family history, especially related to abuse and violence, abuse outcomes and high risk situations.
7. Participants will identify and apply assessment skills necessary when conditions may warrant removal of children from their home.
8. Participants will identify and apply child placement activities ensuring they are carried out according to policy requirements, standards and court orders.

KEY CONCEPTS:

WMAT CPS Process and Procedures, Non-Directive Interviewing Techniques, Directive Interviewing Techniques, Assertive Interviewing Techniques, Intervention Techniques, The Assessment Process, Alcohol/Drug Dependency, Child Placement Activities, Risk Assessment Scales

235

POSSIBLE DISCUSSION TOPICS:

1. Discussion of White Mountain Apache CPS process and procedures and the cooperative relationship between agencies that is necessary when providing effective child protective services.
2. Through small group exercise, participants will identify and utilize approved intervention techniques that enhance worker/client relationships, stabilize families in crises, and permit information to be obtained that will serve client needs.
3. Through small group exercise, participants will identify and utilize approved assessment tools that allow for individual and family strengths to be considered.
4. Through small group exercise, participants will utilize approved assessment tools to determine alcohol/drug dependency.
5. Through small group exercise, participants will utilize models of risk assessment scales to explore family histories as well as family history of abuse.
6. Through small group discussion, participants will assess conditions that warrant removal of children from their homes
7. Through small group exercise, participants will apply child placement steps following tribal policy requirements, standards and court orders.

CHILD PROTECTIVE SERVICES TRAINING
COURSE OUTLINE

UNIT IV CPS PROCESS - POLICE INVESTIGATION

COURSE DESCRIPTION:

This unit will provide a model of the White Mountain Apache CPS Police Investigative Unit, step-by-step procedures, and an overview of methods and techniques used in police investigations of child abuse cases.

COURSE OBJECTIVES:

1. Participants will recognize the purpose and importance of the CPS police investigation as a critical source of information for the various agencies/professionals to carry out their responsibilities.
2. Participants will identify proper investigative procedure and documentation followed by WMAT CPS police investigators.
3. Participants will identify and apply protocol, procedures and components of medical examinations in child sexual abuse or physical neglect cases.
4. Participants will identify evidence of injury specific to child sexual abuse e.g. vaginal findings, anal findings, use of colposcope, Toluidine Blue Dye, sexually transmitted diseases, pubic hair samples, presence of sperm-wet mount and permanent spears, etc.
5. Participants will identify evidence of injury specific to child physical abuse e.g. bite marks, bruises, cigarette burns, broken bones, etc.
6. Participants will identify additional investigative techniques used to analyze certain types of evidence e.g. forensic analysis, polygraphs, hypnosis.
7. Participants will identify investigative techniques used with cases involving mass victimization and techniques used when interviewing large numbers of children.

KEY CONCEPTS:

victim, suspect, witnesses, police investigative interviews, physical evidence and search warrants, evidence of injury, forensic analysis, polygraphs, hypnosis, mass victimization

POSSIBLE DISCUSSION TOPICS:

1. Discussion will be held by participants regarding the roles and steps which tribal police at White Mountain Apache are required to follow when conducting a CPS investigation.
2. Participants will identify evidence specific to child abuse and neglect and discuss the importance of properly gathering evidence acceptable to White Mountain Apache Court standards.
3. Participants will discuss techniques that are used when working with cases involving mass victimization. Emphasis will be placed on discussing interviewing techniques that can be utilized when working with large numbers of children.
4. Participants will discuss issues and techniques that are important in working sensitively with children and their families. Further discussion will center on the impact this type of victimization has on the community.

MATERIALS:

White Mountain Apache Police Manuals
Bureau of Indian Affairs Police Manuals
Federal Bureau of Investigation Investigative Manual
Police Report Forms
Police Investigative Forms

CHILD PROTECTIVE SERVICES TRAINING
COURSE OUTLINE

UNIT IV CPS PROCESS - MONITORING, EVALUATION AND TERMINATION

COURSE DESCRIPTION

This unit will provide a model of processes and skills involved in monitoring and evaluating the delivery of services, modifying service arrangements as necessary, and monitoring evaluation transfers and termination.

COURSE OBJECTIVES:

1. Participants will be able to monitor case plans, evaluate the effectiveness of planning activities, make adjustments as needed and that are consistent with approved plans, policy and law.
2. Participants will be able to evaluate and document behavioral changes.
3. Participants will be able to routinely document family progress toward achieving service goals.
4. Participants will be able to use behavioral specific terminology in case recording, court reports, service agreements and contracts.
5. Participants will be able to list acceptable reasons for terminating or transferring a case.
6. Participants will identify and apply specific time frames for transferring and terminating cases.
7. Participants will be able to assist clients in handling termination constructively by reviewing what has been done together, consolidating gains, planning for the future and dealing with feelings clients may have about termination.

KEY CONCEPTS

Monitoring, evaluation, adjustments, transferring or termination, practice ethics, behavioral changes, time frames, communication, planning, separation and loss

POSSIBLE DISCUSSION TOPICS:

1. Participants will discuss how to identify behavioral changes that are experienced by children, parents and families in the CPS process.
2. Through small group exercise participants will write case plans that have a monitoring mechanism which will be used to evaluate the effectiveness of the plan.
3. Through small group exercise participants will write plans and behavioral specific contracts that have time frames (e.g. court orders).
4. Participants will discuss the impact of termination on children, parents, and family and apply essential steps that are required to terminate a case in pro-active manner.

MATERIALS

White Mountain Apache CPS Manual and Forms
Texas Department of Human Services Training Course Book
Indian Health Service Social Service Manual and Forms
White Mountain Apache Police Manual and Forms
Bureau of Indian Affairs Social Service Manual and Forms
Any Inter-departmental Referral Forms Used by White Mountain Apache Tribe

History of Child Protective Services

Parents are presumed to have primary responsibility for assuring children's basic rights to safety and normal development and for protecting children from violations of these rights. When parents are unable or unwilling to protect their children, society must intervene. Society has created many mechanisms for such intervention, such as Child Protective Services (CPS), law enforcement, public health services, financial assistance programs and education services.

The abuse and neglect of children moved from being largely a private matter to one of public concern late in the 19th century. In 1875, the first Society of the Prevention of Cruelty to Children was established in New York City after the much publicized case of Mary Ellen Wilson, a young child who was treated brutally by her caretaker. A concerned citizen, frustrated in the attempts to get help for Marry Ellen from various public agencies in New York City, was able to convince the American Society for the Prevention of Cruelty to Animals to provide assistance since she was a member of the animal kingdom. As a result of their efforts, Mary Ellen was protected and legislation was enacted to provide for the protection of all children from neglect and abuse.

During most of the first half of this century, the protection of children was initiated through the efforts of local, private, non-profit societies for the prevention of cruelty to children. There were more than 250 such societies in the 1920's acting as a catalyst to bring resources to families and protection through the courts to the children involved in abuse and neglect. Gradually public social service agencies began to take on more of this responsibility.

The decade of the 1960's was one of the major development in response to child maltreatment. Due to the efforts of child welfare professionals along with the medical community's recognition and publicizing of the "battered child syndrome" reporting laws were passed in every state. These laws obligated professionals who work with children as well as ordinary citizens to report child abuse or neglect to local departments of social service.

The primary role for public social services was to respond to abuse and neglect of children with commitment to help families rather than simply treat child maltreatment as a crime. The overall trend in public policy was and continues to be in the direction of providing social services so that families can ultimately become able to protect and effectively parent their children. Instead of "rescuing the child" from the abusing family, the guiding principle has been to "rescue the family for the child." Parents have fundamental responsibilities for their children. Whenever possible, services must be available to help them fulfill that responsibility and meet their child's needs.

Child Protective Services Model

An effective CPS program incorporates the following process:

- Intake
- Investigation/Assessment
- Contact with Child and Caretakers
- Determining Validity for CPS Report
- Decision-Making of Removal of the Child
- Placement of the Child

When a parent abuses, neglects or is clearly unable or unwilling to protect their child, society must respond and protect the child. Public child protective service systems have been the legally mandated social response to meet the needs of these children and their families and has traditionally been a specialized component of a broader child welfare system.

Child protective services are defined as: Specialized casework services to neglected, abuse or exploited children and their families. The focus of the services is the rehabilitation of the home through addressing the situations giving rise to abuse and neglect. Child protective services casework has its roots in the social work profession. Casework is a social work method used with individuals and families and utilizes a problem solving method.

Casework is comprised of the following stages in response to an allegation of child abuse and neglect:

- intake
- initial assessment
- family assessment
- service or case planning
- delivery of service
- monitoring client progress and evaluation
- case closure or termination

These stages are interdependent and numerous decisions occur at each of the stages based on changing conditions in the family system and additional information that may come forward.

A. INTAKE

The intake process involves the identification of cases of child neglect and abuse. Intake is a response process to a CPS report or referral. Intake provides means by which the community can report its concern for children who may be in questionable, substandard, or dangerous situations. Intake is the initial point of contact between the CPS agency and the community and will heavily influence the perception of expertise and professionalism with which the person making the report regard the CPS agency.

Receiving the CPS report

Effective CPS programs incorporate a reporting process. Mandated professionals as well as community members report concerns of child abuse and neglect to an agency which may be the local social services - child protection program or in some communities law enforcement. Upon receiving the report, the agency is responsible to the community and the reporter as well as the involved family by gathering and examining very carefully relevant data.

In depth information on the family and factors should include:

- the nature of the referral (why the family is being referred; the incident that precipitated the referral)
- the source of the reporter's information, e.g. was the reporter a witness; did he hear of the incident from someone else; was a rumor the source of information and what is the reporter's relationship with the family?
- were there previous incidents
- specific facts, dates and descriptions related to the condition of the children
- how long has the situation been going on

Screening of the Report

The priority of the report determined by utilizing a CPS Prioritization of Action. There are four priorities:

- Priority I: Life Threatening/Emergency Situation
- Priority II: Dangerous But Not Life Threatening
- Priority III: Substandard Child Care That Is Not Dangerous or Life Threatening, But Is Damaging
- Priority IV: Substandard Care That Can Become Damaging

Each priority necessitates a different response time. A response is defined as initiation of an investigation which includes direct or indirect contact with the child and/or perpetrator which may be by telephone or in person on site.

A priority I indicates an immediate response, but not later than two hours. Response time for a priority II is respond promptly, but no later than 48 hours; priority III response time is to respond promptly, but no later than two working days and priority IV is to respond promptly, but no later than one work week.

Each priority is further categorized by a case characteristic. For example, a priority III (Substandard Child Care That Is Not Dangerous or Life-Threatening, But Is Damaging) characteristic should be emotional abuse - children whose behavior might indicate abuse or neglect and include restraint or other type of action on the part of the caretaker which has the effect of terror, rejection, isolation, humiliation or debasement of children.

The White Mountain Apache Tribe presently utilizes the following Prioritization of Action Process:

Priority I: The following referrals shall be investigated either immediately or within 24 hours. Priority I cases shall be referrals of current abuse/neglect which place the child at risk at the time of referral:

- death (must be immediate)
- brain damage, skull fracture
- wounds
- internal injuries
- sexually transmitted disease (young children)
- malnutrition
- sexual abuse
- failure to thrive
- abandonment
- children in substitute care
- burns, scalding
- poisoning/noxious substances
- subdural hematoma
- bone fractures
- excessive corporal punishment
- tying/close confinement
- drug/alcohol abuse which effects the child's well being
- serious medical neglect

Priority II: The following are cases which must be investigated within 10 days

- Priority I cases which are not immediate and/or do not place child at imminent risk
- inadequate clothing
- serious educational neglect
- neglect which does not place the child at imminent risk
- inadequate food, medical care, shelter
- lack of supervision/caretaker
- relinquishments

Priority III: These are not investigated by Tribal Social Services. They are referred to other services and may include the following:

- adolescent truancy, delinquency; school problems; sexual acting out (unless directly related to abuse)
- marital conflict with no indication of abuse
- parent/child conflict with no indication of abuse
- neighborhood squabbles or problems between families
- custody disputes in which there are no indications of any type of abuse or neglect
- reports which are clearly malicious complaints or are repeated unsubstantiated
- alcohol/drug abuse, unless directly related to abuse or neglect of the child
- mental health issues such as suicide ideations, psychoses, schizophrenia, pathologic disorders, etc. (unless child is in custody of the Tribal Social Services)
- sexual abuse when the alleged perpetrator is not a member of the victim's family. (Tribal Social Services will assist law enforcement at their request.)

Decision-Making Factors in Choosing the Priority of a CPS Report

The following factors are part of the decision making process:

- age of the child - the age of the child is a primary piece of information when considering urgency. The urgency of any case increases as the child's age decreases.
- does the child need medical care - a child who has been injured and whose injury is untreated needs an immediate response
- is the child alone - any child who is alone and is under 10 years of age is at greater risk. The longer the child has been alone the more urgent the case.
- is the child fearful of his or her circumstances - children usually know when there is a risk to their welfare
- possible need to shelter the child
- prior reports/previous history
- time lapse from incident to report
- reliability and motivation of the reporter
- family dynamics
- geographical location regarding the climate variables

A report may be considered to be of less immediate concern or urgency if the following questions can be answered positively:

- is the child's behavior appropriate
- does the child appear healthy and properly nourished
- is the child attending school

- does the child's development seem normal
- *is the child dressed appropriately for the weather*

Key Decisions to Make following the Intake Disposition of the Report

Following the screening of the report a determination must be made as to the disposition of the report based upon state, federal, tribal laws, agency guidelines and the information gathered. Agencies use different terms for disposition categories such as substantiated, confirmed, unsubstantiated or unfounded.

The definition of substantiated adopted by many states base the decision on "credible evidence" that abuse or neglect has occurred. For some states, the standard of proof is a "preponderance of evidence." Unsubstantiated is frequently defined as reports where "no credible evidence of abuse or neglect has been identified."

After assessing the risk to the child and substantiating the report decisions regarding the agency response to the child and family will be required. Is the agency going to provide ongoing services to the child and family or will they be referred to another agency for services.

A decision of whether to pursue court action will be required. The decision to remove the child from his home may be required. The criteria for this decision may include:

- the present or potential maltreatment in the home
- the child needs immediate medical or psychiatric treatment which the parents refuse to obtain
- the child's physical or emotional injuries require a special environment for treatment

Skills Necessary for Effective Intake

Skills that are necessary for effective intake include good communication, the worker's ability to be nonjudgemental, thorough assessment and data collection.

Effective skillful work at the point of intake is critical. The worker must be aware of not only his/her responsibilities to the child who may be in danger of abuse and neglect, and also the responsibility to the community. In addition, thorough information gathering and assessment are essential since the decision must be made as to whether the report is valid and if it is, determine its urgency.

B. INVESTIGATION/ASSESSMENT

The purpose of the CPS investigation or assessment is to determine if the report is found to be valid, invalid or undetermined. The principle goals for conducting a CPS investigation are to:

- determine nature and extent of current and future risk to the child for maltreatment
- involving the parent/caretaker, children and others as appropriate in the information gathering and decision-making process
- protection of the child from suffering further or future abuse through supervision of in-home services or out-of-home placement if it is determined that the child cannot be protected in the home
- balance in the process of the investigation; the legal rights of the parent/caretaker/custodian and the needs and rights of the children to live in a physically and emotionally healthy environment

Process of Conducting an Investigation

The investigation or assessment of a report of child abuse or neglect sets the stage for problem identification, validation, service planning and the establishment of a helping relationship. Investigation/assessment is probably the most discomforting and difficult part of the CPS process. During this process the worker must attempt to answer basic questions by collecting information from clients and others, evaluate the information and decide the most appropriate intervention strategy.

The key activity in the investigation process is to gather information by interviewing the parents, the child and other siblings. Where necessary, the neighbors, friends, relatives and other involved professionals can also be interviewed. The family, the child and the home situation must be observed. The purpose of observation is to collect and document current and historical information relevant to the case. The child's physical and emotional state should be particularly observed.

In order to accomplish these purposes and answer essential questions, the worker must gather and evaluate information during the initial assessment which will be the justification for the decisions made. To attempt to decide the issues without adequate information or knowledge of how to assess this information could be disastrous. It could endanger a child, unnecessarily destroy a family, or both. A complete assessment includes gathering all pertinent information and engaging the parents in the process before cases are substantiated.

Initiating Contact with the Child and Family

Before contacting the clients, the purposes of the contact and the goals to be accomplished by the interview need to be clear. The worker should be clear about his/her own position, attitude, values, skills, confidence before confronting the client in an interview. This self-awareness will greatly influence the approach and the degree to which goals will be accomplished. The worker must be prepared to accept and respect the culture and lifestyle of the client which my be different. The worker must be thinking of ways to begin to engage the client and plan on a helping strategy.

The following recommended protocols relate to the initiating of contact with the child:

- the alleged abuse caretaker or person should not be present during the interview with the child
- the interview should be conducted privately in a non-threatening situation. If the child requests another individual to be present, the interview should be conducted with the individual present.
- video taping alleged sexual abuse victims
- informing the child of allegation and the need to investigate
- allow the child to ask questions and express their emotional reactions to the investigation

Initiating Contact with Caretakers

The initial contact should begin by communicating in a non-accusatory courteous manner. It should be clear that the worker is there to determine the facts, not to make judgement or establish guilt. The importance of a good introduction to the family will serve to lessen the client's resistance and help establish positive rapport where the client will be willing to share information and will sense that the agency is wanting to be helpful.

Avoid attempts by the client to blame others or express negative feelings toward the worker or others for the report. As outsiders to the clients home, courtesy and respect of the client's rights should be maintained.

Investigators must prepare to meet hostility, anger and other defensive reactions by the client. Acknowledge to the client that you as the investigator realized your contact is distressful and frightening.

Make allegations which are frank and specific. After the allegations are stated honestly and directly, the client is then in the immediate position of having to admit, explain, or deny the allegations or prove that they are false. Once the client offers to prove the allegations are false or to explain how the alleged maltreatment occurred, the investigation is in a good position to view the evidence and/or seek clarification or elaboration of the client's explanation.

In almost all initial assessment work, the parents will ask the investigator who reported them. In most states, this is considered confidential information. The primary function is to assess the allegations of abuse and neglect and not to be distracted by prolonged discussion with the client as to who reported them. Planning in advance of how to respond back to the client when the question is asked is essential. In declining to identify the reporter, the investigator should be sympathetic to the client's frustration and anger at not being able to identify and directly confront the accuser.

Determining the Need for Immediate Crisis Intervention

When the crisis of being reported occurs, most parents begin the six stages of response described below:

- most parents want to maintain the status quo and deny the allegations. Other behaviors such as manipulation, sidestepping the issue, hostility, or explaining away the incident are observed.
- parents try to mobilize old problem solving methods and may think they can intimidate the investigator, directly or indirectly using an attorney or another person.
- parents may eventually seek help if the pressure of the crisis continues
- when the help is not immediate and visible, these parents may become discouraged, regress or quit
- if the parents obtain help and make use of it, they will begin a readjustment toward upward movement
- if the entire CPS process is successful, permanent readjustment in which parents focus on present and future issues with little comparison to the past

Crisis intervention is not simply providing emergency services to the family. It employs a systematic approach at problem solving and is a way of promoting client growth to a higher level of functioning that was present prior to the onset of the crisis.

Removal of the Child

The decision-making process determining the need to remove a child requires:

- gathering of appropriate information
- communication/consultation with the CPS supervisor and others who have responsibility in CPS matters
- provision of services to prevent removal as necessary and possible

- the risk assessment result of imminent danger to the child
- legal status of the child

When the decision is made to remove a child, the natural family, child and foster family should be prepared and kept informed. Information should be shared with the child as much as the child is able to accept. This information should include not only what is happening regarding a foster home, but also what is happening with the natural family. The child must understand why the agency is involved with the family and why he is being placed.

The decisions to remove a child must be explained to the child because the child's guilt is immense and must be dealt with explicitly. The child must be assured that he/she is not the cause of the placement or family breakup. The investigator must be keenly aware and remember that the separation and the effect on the child are real and will be evident.

As reunification with the natural family is the plan in most situations, the placement needs to be least restrictive and most similar to the child's natural family.

Alternatives to the removal of the child from his home include:
- in-home services
- placement with relatives with or without services
- placement with other appropriate custodian
- voluntary foster care

Out-of Home Placements

When it is determined that the child is suffering or will imminently suffer abuse and neglect and there is no alternative to removal, a placement should be arranged in the least restrictive environment consistent with the child's well being and safety.

Out-of-home placement option include:
- other natural, adoptive, or legal parents
- relatives
- family foster care
- licensed group facility (shelter, group home)
- friend or other responsible person in the community, persuant to a court order

CASE MANAGEMENT AS APPLIED TO CHILD PROTECTIVE SERVICES AND CHILD WELFARE

Case management is a systematic approach to social work. It emphasizes the "systems" in which a client must function rather than individual inner thought processes. Case management differs from a therapeutic approach as the "focus of client change" and concentrates on improving interaction between clients and their environment.

Case management in child welfare is a client-centered, goal-oriented strategy for case assessment and service delivery. It is a series of related decisions, actions and processes which are guided by assessment and ongoing evaluation or progress toward mutually agreed goals.

Participation in case planning is shared by the case manager, family, members of the child protective team and significant others. The case manager is responsible for involving others in the development, monitoring and implementation of the case plan. Services are task-centered, time limited and focused on the resolution of specific problems. Services may be provided by the case manager, other staff, contract providers, other community resources and/or volunteers, depending upon the needs of the children and families and the resources available.

Elements of case management should include:

- intake
- assessment
- engaging and involving the client
- case planning
- plan implementation
- monitoring and evaluation
- case closure

INTAKE PROCESS

Intake is the initial process of screening, receiving and recording information for the purpose of determining risk to the child and the need for protection.

ASSESSMENT PROCESS

The first step in the social work process is assessment. Assessment includes the development of understanding about individuals, families, small groups, agencies and communities. It is the collection and analysis of information, the fitting together of available facts so they produce meaning.

Assessment identifies the need or problem the client presents. The task of assessment is to identify information needed to further understand the need or the problem.

Some of the most important characteristics of assessment are:

- It is ongoing. Assessment takes place throughout the life of the helping endeavor.
- Assessment is twofold, focusing on both understanding the client in the situation and on providing a base for planning and action.
- Assessment is a mutual process involving both client and worker. The client is involved in all aspects of assessment to the maximum of his or her capacity.

ENGAGING AND MOTIVATING THE CLIENT/FAMILY

Engaging and motivating the family occurs simultaneously with assessment and case planning. The case manager is the agent who initially engages the family and maintains ongoing responsibility for motivation for change. A continuing awareness of the following factors will facilitate the motivation process:

- most families want to provide adequate care for their members and are capable of change.
- all families have strengths on which it is possible to build.
- families have a sense of their own needs and priorities and will be more responsive if actively involved in the determination of their own goals and case plans.
- family empowerment leads to improved functioning
- encouragement and support are integral to the process of change and are essential to clients as well as to all individuals involved in the helping process.

To engage the client family in a helping relationship, it is important to know each member and understand their values and world views.

CASE PLANNING

Case planning is a continuous process from Intake through Closure. The case plan is formalized at given points and officially documented during the staffing process and in court reports. Case planning is a logical outgrowth of the social history and risk assessment.

The development and implementation of the case plan is one of the most important parts of the case management process. A complete case plan, worked out in cooperation with the family and case manager will establish the case plan goal, state the changes required to accomplish the goal and contain explicit details about how the changes will be facilitated. It will define the responsibilities of all parties and specify the frequency of services and completion dates. The case plan also states the consequences of an achieving or not achieving the objectives and indicate any barriers hindering progress.

Guidelines for the development of a case plan

Case plans are developed according to the following principles:

- The least restrictive intervention which is consistent with the child's well being and safety. If the child is placed out of the home, the placement should be in the least restrictive, most family-like setting and as close to the family's home as possible. Placements should be consistent with the child's cultural, religious and ethnic background, whenever possible.
- Reasonable efforts should be made to:
    - maintain the child in the home if the child is not in imminent danger and offer preventive and rehabilitative services for the purpose of family preservation.
    - reunify the family as quickly as possible when out of the home placement has been necessary for the child's protection.
    - when reasonable efforts have been made and family reunification is not possible, an alternative permanent plan is developed for the child and implemented in a timely manner,

Case Plan Implementation

When the case plan has been developed, the case manager is responsible for providing a copy to members of the service team and the family for arranging services as identified by the plan. This includes making referrals for services, completing the necessary paperwork and providing background information to providers.

Services can be directly by staff or by providers contracted by the agency. Examples of contracted services are:

- psychological evaluation
- counseling
- parent aide
- family preservation

Community services may also be utilized. In smaller communities where services are limited, multi-disciplinary teams are a good resource for identifying and coordinating services.

MONITORING AND EVALUATION OF THE CASE PLAN IN CPS

Monitoring the case plan is the process of gathering information about the service provision in order to evaluate progress toward the objectives of the service plan. Monitoring is an essential stage:

a. It protects all parties involved by periodic review of progress or problems.
b. Good services plans may become ineffective because they are not monitored.
c. Without monitoring of the service plan, there is no basis for evaluation of progress or problems.

The role and responsibility of the case manager is to make certain that the following aspects of the case are being performed.

a. Verification that services are being provided according to the time frames of the plan.
b. Identifying problems related to the delivery of services soon enough to be able to make changes.
c. Work with clients and service providers to remedy problems that occur and make adjustments to the plan to work out new arrangements or agreements.
d. Identify the client's progress or lack of progress in achieving goals and objectives.
e. Identify major setbacks in the case. e.g. recidivism. If abuse recurs, the courts must be informed, the case plan must be renegotiated and service providers must be informed.
f. Communicate directly with clients and service providers in identifying problems related to achieving the outcomes in the plan and the consequences if these objectives or outcomes are not achieved.
g. Revise the plan as needed by identifying new or additional problems which are central to preventing further abuse.
h. Arrange, attend and/or conduct staffings or multi-disciplinary team sessions.
i. Maintain written documentation of all monitoring activities as well as reports submitted by service providers. This documentation is a critical function of case management and may be essential to provide to the courts.

CASE CLOSURE OR TERMINATION OF CPS CASEWORK PROCESS

Termination of the CPS casework process refers to the final phase of the work with the client. Closure is the point at which the service provision process ends. It is one of the many decision points in the CPS process and where it is determined whether the goals of the service plan have been achieved and whether the abusive behavior has stopped and the risk to the child is sufficiently reduced.

Some reasons for terminating the child protective services include the following:

a. If all the goals have been achieved.
b. If the reason for intervening initially and for having a case plan no longer exists.
c. If the children may no longer need protection.
d. If the abuser may have died or left the home permanently.
e. If the parents have relinquished the children for adoption or out-of-home care.

Many CPS workers must weigh whether or not a case should be closed in those cases where protective services related to problems still seem to be present.

Unacceptable reasons for termination:

a. Being fearful, not trusting or disliking the client.
b. Believing that it is too time consuming to work with the client, the whole CPS process of problem identification, assessment, setting goals and defining tasks and monitoring.
c. Believing that if the client were really motivated and capable of change he would change without any help from anyone.
d. Disagreeing with the client on the prioritization of goals and problem solving.
e. Feeling like "giving up" before all service alternatives are pursued.

The termination process can be a positive experience for the client and case manager. The process can and should be a meaningful, therapeutic learning experience for the client. Failure to assist the client through a positive termination process can negatively affect whether the benefits the client has achieved during and as a result of the service provision process are long lasting.

C. Tools for Skill Building

Interviewing

There are a number of specific considerations which are important in interviewing children and families. Interviewing is the vehicle in CPS by which assessment and treatment are facilitated. It is an important part of the helping process which begins at intake and continues until termination. The quality of the relationships which are developed by the manager and client and their responsiveness to help will depend to a great extent on the interviewing skills of the worker.

Effective interviewing is a composite of knowledge, skills, preparation, experience, attitude and the worker's own inherent abilities. Some of the skills develop naturally as interviewing is practiced and refined. However, in learning to interview clients successfully, it is important that practice is indispensable and that competency will be achieved only if certain effective approaches and techniques in dealing with the CPS client is utilized.

The child protective services client is involuntary - he does not request your help and maybe forced to accept it - this client is most likely going to be angry and hostile. Conducting a successful CPS interview in these situations is a great accomplishment. Being able to be prepared to deal with an emotionally charged situation in which a child may be in serious danger and to withstand a great deal of frustration is of great importance.

The Stages of an Interview

All interviews have three stages: 1) the opening or beginning stage; 2) the middle or working-together stage and 3) the ending stage. Each stage has a different focus and different tasks. A professional interview is designed to meet specific purposes:

a. It is designed to elicit information.
b. It is designed to impart information.
c. It provides an opportunity for the client to express feelings and release tensions.
d. It may be used to motivate the client to feel or behave in a certain desired way.

Skills Utilized

Clients give information and express feelings in nonverbal, behavioral ways. They also provide information and express feelings in a way in which other information is given and discussed. Workers should observe:

a. Body language
b. The content of opening and closing sentences

c. Shifts in conversation
d. Association of ideas
e. Recurrent references
f. Inconsistencies or gaps
g. Points of stress or conflict

Guidelines for Interviewing Children

Workers should not interview a child who is a victim of abuse in the same way that one would interview an adult. Many variables need to be taken into account regarding the child's dependency on his parents; the level of maturity and the trauma experienced as a result of the abuse.

Interviewing Children Versus Interviewing Adults

Children's perceptions and capacities differ from those of adults. They often mix reality with fantasy. Younger children have limited attention spans. Children's time orientation is limited in terms of the meaning of the length of time or past and future. Children have a more limited vocabulary than adults and are less able to deal with abstract terms. "Why" questions should be avoided when interviewing children.

Children often put up a facade of "maturity" in an effort to hide their real feelings and impress the worker that there is nothing wrong. Such children have allegiance to their parents in spite of the abuse. If, as an interviewer, the worker starts to blame the parents, this may cause the child to withdraw and become defensive. It is important not to blame the parents and tell the child that his anxiety is understood. Foremost, the worker must be honest with the child and speak plainly.

The worker must prepare to be open to hearing the child's story. Being nonjudgemental is important. Decisions must be made ahead of time as to where to interview the child, at home, school, in the hospital, with the parents present or at some other location. Upon meeting the child, the worker should be prepared to assess the child's condition by observing non-verbal expressions, physical symptoms, emotional symptoms and behavioral symptoms. Some children may be fearful, affectless, detached and withdrawn and other may be aggressive.

Interviewing Issues Specific to Sexual Abuse

The information gathered in this interview with the child may be the only evidence available if there is a criminal trial. Recording the interview is key to being accountable. Video and/or audio taping need to meet the mandate of tribal and agency procedure.

Ask the child to differentiate between truth and a lie and elicit their agreement to tell the truth.

The ideal setting for interviewing children has the following characteristics:

a. A neutral or familiar setting so that the child does not feel pressured or intimidated.
b. A room with a one-way mirror, or space in the back of the room for other professionals who may otherwise have to interview the child again.
c. Child-sized furniture (tables and chairs or pillows, rugs for sitting on the floor) so that the worker can sit at the child's level.
d. Toys and props such as anatomical dolls, play dough and play telephone.

Risk Assessment Tools

Risk assessment is a structured process used to determine the current and potential risk and safety of a child and used to assist in key decision making processes in child abuse and neglect situations. Effective risk assessment models focus on the strengths and deficits of the family environment. Successful implementation of a risk assessment process has value for the children and families as well as protective services workers, supervisors and management. Risk assessment models serve as vehicles for communicating agency activities to the court system, to other agencies and to advocacy groups and to lawmakers.

Key factors in risk assessment models:

a. It identifies factors which contribute to the child's risk and safety and guide staff in service planning to address and ameliorate the specific risk factors.
b. It serves as a way to assess family functioning and assists in decisions about court referral; and aides in decision making about removal, placement and reunification.
c. It is a process whereby case data is organized and facilitates service planning.
d. Factors concerning the child include:
    - the age, physical and/or mental abilities
    - child's ability to care for himself is influenced by his chronological and mental age
    - certain children are considered to be at higher risk because of physical handicaps, prematurity or chronic illness
    - severity, frequency of abuse/neglect
    - location of the injury
e. Factors concerning the caretaker:
    - age, physical and mental abilities
    - the interaction of caretaker and child such as bonding to the

child

- cooperation of the caretaker by willing to protect and take appropriate actions on behalf of the child
- his parenting skills and knowledge
- previous history of abuse/neglect

f. Environmental factors:

- the perpetrator's access to the child - is the child at higher risk if the perpetrator has access and at low risk if no contact is possible
- environmental condition of the home
- strength of family support system
- stressors
- are there sudden or chronic stress factors the family is experiencing?

Recording

Essential to all case records is recording. Recording is the method by which a worker, client, and agency has available to them in tracking the progress towards a given task. Therefore, case re cording plays a vital role in the provision of qualitative services. It serves to protect the client, worker, and agency in the event that a legal action is required. A case record tells a story about who the client is; what services he/she needs and how he/she receives them; when each step of the case takes place and why ; and at all times, where the client is in his/her progress toward solving the problem.

The contents of a case record are mostly objective, verifiable facts. Any editorials--subjective opinions by the caseworker--should be identified as such and must be backed up with good reasons.

In addition, all the information must be readable and understandable following a logical order to its conclusion.

A case record is never only a memory aid to the caseworker. Rather, it becomes a reference document as it is being written.

First, clarify what kind of information each item is. There are basically three types: (a) facts; (b) observations; (c) interpretations.

Facts are client activities, caseworker actions or decisions, or information from official records or documents.

Examples:
A mother asked to place her children in foster care. Medical records for a client revealed a history of
unexplained injuries.
Observations are recorded notes of client behavior, seen by, or reported to you, either by the client, or by others.

Examples:
The client became angry during the interview, raising her voice and making unjustifiable accusations. The client's mother reported observing the client slapping her 6 month old son for making too much noise.

Interpretations are your opinions, based on the facts and observations you have gathered. Take care not to record opinions without supplying ample evidence to support them.

Examples:

This client needs to attend parenting classes. As evidenced above, her approach to discipline is inappropriate for the age of the child. Inappropriate discipline for unrealistic expectations could lead to increasingly abusive situations.

Second, be as objective as possible. Recorded facts and observations are easily verified, so the bulk of your record should be made up of these. You should reserve your opinions until you have shown why you have formed them.

Third, be specific about problems and services offered. Details, such as dates, names of information sources, frequency of problem occurrences, etc., build a clear description of the problem and assure validity. Details about the services you offer and how the client or family accepts those services can show not only what you have done, but also point to other services which might help.

Also avoid using technical or bureaucratic jargon and labels that can be loosely defined.

From Social Services in Public Welfare, Texas, A DHS Curriculum.

SAFETY PROCEDURES FOR CPS CASEWORKERS

Before leaving the office:

1. Is the present crisis hot or cold?
2. Assess the reliability of your information.
3. Are there any reports of weapons being involved?
4. Are there any unusual circumstances?
5. Do you need the police to come with you?
6. Take a partner with you if you need to.
7. Leave information about where you are going.

On the way to the address:

1. Drive at fixed rate of speed and keep calm.
2. Anticipate the scene. What may be going on? What is the set-up?

Arrival:

1. Park your car one house away if possible and if not, in an inconspicuous area.
2. Keep your window rolled down as you approach (listen).
3. Roll up windows and lock your car when you get out.
4. As you step out of your car, look and listen.

Entering:

1. Knock (should not be too loud or abrasive).
2. Stand to one side of the door as you knock.
3. If someone tells you to "come on in"--don't.
4. Use a visual search immediately upon entering (be aware of surroundings).
5. Is there a dog?

Inside:

1. Assess the potential for immediate violence.
2. Stabilize the physical situation.
3. Stand or sit near the exit. Don't allow yourself to be blocked off.

Safety:

Your safety is the most important factor in the interview process. You do no one any good if the situation becomes violent and you get hurt. Do not be afraid to leave if you feel uncomfortable or unsafe.

Dealing with hostility:

1. Provide calm and direct instructions.
2. Use distraction techniques. (Move into safer content areas)
3. Avoid:
   a) Embarrassing or putting someone down.
   b) Threatening to have the police arrest someone.
   c) Threatening court action.
   d) Quoting legal codes or DHR policies as a threat.
   e) Touching.
   f) Excitement and crowds.
   g) Deception.

What to do if violence is in progress when you arrive:

Call the police for help in the following situations:

1. When you arrive, you find someone seriously injured. (Also call your local Emergency Medical Services)
2. A weapon is used or displayed in your presence.
3. Threats are made to the victim or to you.
4. Violent actions occur in your presence

Assessment of the potential for violence:

The best predictor of future violence is a history of violence. Other cues to be aware of include:

1. Recent changes in behavior.
2. The use of or presence of alcohol or drugs.
3. The presence of a firearm.
4. On his own vs. neutral territory.
5. Few people around vs. many people around.

Your best strategies to deal with hostile individuals involve taking your time (when possible) and treating people with compassion. Both will set examples for and will have a calming influence on the people with whom you are working.

Adapted from DHS curriculum, Texas, APS Basic Casework.
Developed for DHR by Allen Dietz.

CASE EXAMPLE #1

Sarah is a 14-year-old Native American female, referred to Social Services by Juvenile Detention, due to numerous incarcerations, related to alcohol. This recent incarceration brought about a new episode, a suicide gesture while she was being taken to jail, Sarah jumped from a moving vehicle.

During the initial interview, Sarah revealed she was not staying in any one particular place. She has no legal guardian, as she moved from home of relatives. Her natural mother died when Sarah was six years old, six months later her natural father died also. Both died of alcohol related motor vehicle accidents. Sarah has one brother and one sister who both reside with an extended family member, a first cousin. Sarah tried staying with this family too, but had to leave because she would drink and sniff and cause problems. Sarah also shared that she sometimes hears voices and that nobody wanted her. Sarah also stated that she had been "raped a lot by a lot of people." When asked by whom, she responded that "this happened all the time by all kinds of people," and did not want to talk about her incidents or perpetrators.

Social Services was called to request a placement due to Sarah not having a place to go, and no relatives being able to care for her. Sarah was temporarily placed at the local Tribal Youth Home. While there, she again attempted suicide by drinking shampoo and white out. Sarah was hospitalized.

Indian Health Service Unit staff did not want to keep Sarah due to her high risk behavior. They did not have hospital staff to monitor a person with high risk behavior. IHS Social worker is calling Tribal Social Service requesting them to place Sarah.

The Child Protective Services worker took the referral and reported the situation to the supervisor. The supervisor stated "Tribal (638 contract) Social Services cannot pay for placement of a mental health patient, and Indian Health Services should do a placement through Contract Health." The supervisor instructed the CPS worker to relay this information to the IHS Social Worker. The IHS Social Worker stated to the CPS worker that a diagnosis by a psychiatrist would be needed for placement and that a request to Contract Health should be made. However, the placement would only be for a ten day evaluation and assessment period. The workers both asked each other, after the ten days what would the status of Sarah be?

Issues to be answered are:

- Is this a CPS case report?
- Does the supervisor at Social Services appear to be helpful and supportive of the CPS Worker? And should the CPS Worker relay information on placement to the IHS Worker?
- What are placement options? On or off reservation?
- What are immediate and long-range goals?
- What is the legal status of the child?
- Who should take the lead in placement and planning of this case?

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CASE EXAMPLE #2

Social Services received a referral from the hospital concerning a newborn whose mother wishes to place her in foster care. The mother is 23 years old, not married and has no other children. The mother is an intravenous drug user and has tested positive for the AIDS virus. The mother refuses to offer any information about relatives and does not want to discuss the possibility of keeping the child.

The hospital is requesting social services to intervene and provide foster care as there are no medical reasons for the child to remain hospitalized. The child does not present any symptoms at this time.

Discuss how you would intervene in this case. Use the following to ascertain what decisions must be made:

- Does the agency have an AIDS policy? What does the policy outline for foster care placement?
- Who "needs to know" about the child's situation? Who is responsible for informing these people?
- What type of foster care home will the child be placed into?
- What risk factors need to be identified? Is there a sense of fear for the child, i.e. are staff afraid they will "catch" AIDS from holding the child or changing her diaper?
- Are the social workers, case managers, and the administrators and foster parents trained on transmission, universal precautions, testing and treatment?

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CASE EXAMPLE #3

Shelley is a 15-year-old, she lives, and is, in the custody of a maternal grandmother, due to her natural mother's alcoholism. She has been sleeping a lot, getting into trouble at school, and has gained weight. Grandmother suspects that Shelley is pregnant, but does not want to ask her for fear that she will get offended. Grandmother wants to know if Social Services can find out if she is pregnant. The Social Services worker asks grandmother if she can bring Shelley in, for this issue to be addressed. On the day Shelley and grandmother come in, grandmother has already asked Shelley, and Shelley does think she may be pregnant.

Shelley appears very angry, and will not say much to the worker or to her grandmother. The Social Worker suggests that the Grandmother go to the local clinic to get a pregnancy test, and when it is confirmed to return to Social Services for referral for counseling services, for parenting and teen support services. School issues will also be discussed at this meeting.

After the meeting at Social Services, the grandmother calls the Social Services worker, requesting the worker to find out the identity of the father of her granddaughter's baby.

ISSUES TO BE ADDRESSED

- Whose responsibility is this to confirm the pregnancy?
- Who should be the primary client, the grandmother or Shelley?
- Is this a neglect situation?

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UNIT V

White Mountain Apache Protocol

Prepared By:

Ms. Sara Stevens, MSW

WHITE MOUNTAIN APACHE TRIBE CHILD PROTECTIVE SERVICES PROTOCOLS MANUAL

TABLE OF CONTENTS

Course Outline 294

Training Outline 296

I. INTRODUCTION 301
II. AUTHORITY 302
III. REPORTING
Federal Reporting Laws 303
Tribal Reporting Laws 305
Reporting Procedures 306
Notification 306
Written Reports 307
Confidentiality 308
IV. INVESTIGATION
Initial Screening 311
Priority Levels for Investigative Response 312
Investigative Authority 314
Investigation Process 315
Documentation 316
Investigative Decision 317
V. ROLES AND RESPONSIBILITIES
Bureau of Social Services Child Protective Services 318
Law Enforcement:
Tribal Police 321
Bureau of Indian Affairs Criminal Investigators 322
Federal Bureau of Investigation 323
Child Protective Team 324
Tribal Victims Advocate 326
Tribal Leaders 326
United States Attorney 327
Victim Witness Program 328
Medical Services:
Whiteriver Service Unit 330
Whiteriver Service Unit Social Services 333
Education 333

VI. JUVENILE COURT PROCESS

Emergency Custody 334
Notice Provisions 335
Emergency Placement Options 335
Petition 336
Summons 336
Initial Hearing 337
Predispositional Study and Report 337
Adjudicatory / Dispositional Hearing 337
Review Hearing 338

VII. CRIMINAL COURT PROCESS

Definitions 338
Criminal Court Procedure 341

VIII. APPENDICES

Definitions:

White Mountain Apache Criminal Code 343
White Mountain Apache Juvenile Code 348

CHILD PROTECTIVE SERVICES TRAINING
COURSE OUTLINE

UNIT V: White Mountain Apache Protocol

COURSE LENGTH: 6 HOURS

DESCRIPTION:

This unit will present participants with information on the need of the developed White Mountain Apache Tribal Protocols. Additionally, this unit will experientially afford participants an opportunity to use the White Mountain Apache Tribal Protocols. Emphasis will be placed on learning Internal Protocols of various White Mountain Apache Tribal programs, while addressing the family and community dynamics of child abuse.

COURSE OBJECTIVES:

1. To develop an understanding of the newly developed Tribal Protocols.
2. To develop an understanding of the existing Internal Protocols of various tribal programs.
3. To identify and present family and community dynamics which cause child abuse, child neglect and/or child sexual abuse.
4. To impart knowledge and skills in inter-agency problem solving.

KEY CONCEPTS:

Protocol, SCAN, child abuse, neglect, sexual abuse, problem solving method

POSSIBLE DISCUSSION TOPICS:

1. Using Apache stories to address traditional view of children.
2. Through case examples, participants will identify and address how to use the newly developed tribal protocols.
3. Through case examples, participants will role play the use of the tribal social services CPS priorities.
4. Through case examples used in small group exercises, participants will identify steps to be taken by police utilizing the tribal CPS protocols.
5. Through case examples used in small group exercises, participants will identify steps to be taken by Guidance Center Counselors utilizing the tribal CPS protocols.
6. Through the use of case examples in a small group exercise, participants will identify the steps in beginning for case planning.

MATERIALS:

White Mountain Apache Tribal CPS Protocol Manual
PL 101-630 or 25 USC 3203 Section 404 (Regarding Procedure)
Chapter 11, Section 11.1 of WMAT Juvenile Code
White Mountain Apache Multi-Disciplinary Team for Children/Child Abuse and Neglect Form

CPS TRAINING PROJECT: UNIT V
WHITE MOUNTAIN APACHE TRIBAL PROTOCOLS
TRAINING OUTLINE

I. Introduction
  A. Trainers
  B. Participants
  C. Agenda

II. Community Protocols
  A. Definition of Terms
  B. Why are protocols necessary?
  C. How to use a Protocol Manual
  D. Presentation of WMAT Protocols
  E. Small Group Discussion: Questions and Answers

III. The Internal Protocols of WMAT Programs
  A. Tribal Social Services/Child Protective Services
  B. Tribal Police Department
  C. Bureau of Indian Affairs Law Enforcement
  D. Federal Bureau of Investigation
  E. Indian Health Services
  F. Educational System
  G. Child Protective Team

IV. Family and Community Dynamics in Child Abuse
  A. Community
  B. Family
  C. Family Case Studies
  D. Appropriate Response Procedures
  E. Small Group Exercise
  F. Large Group Processing

V. Problem Solving Process
  A. Definition
  B. Brainstorming
  C. Selection of Option
  D. Implement Action
  E. Evaluate Outcome
  F. Identification of Potential Problems
    1. Inter-Agency Coordination
    2. Case Management
    3. Communication
    4. Documentation
    5. Small Group Exercise

VI. General Questions and Answers

VII. Closure

CPS TRAINING PROJECT - UNIT V
WMAT PROTOCOLS

Training Objectives:

1. To develop a clear understanding of the newly developed tribal protocols, which define roles, responsibilities and plans for action for all entities within the tribe who must respond to reports of child abuse, child neglect and/or child sexual abuse.

2. To develop a clear understanding of existing protocols within each agency which is mandated to respond to allegations of child abuse, child neglect and/or child sexual abuse.

3. To present family and community dynamics which cause child abuse, child neglect and/or child sexual abuse to occur, and to role-play appropriate agency responses to each of four case examples based on participants of these dynamics and the new protocols.

4. To impart knowledge and skills employed in the problem-solving process for use when inter-agency problems arise.

WHITE MOUNTAIN APACHE CHILD PROTECTIVE SERVICES
PROTOCOLS MANUAL
RESOLUTION

Number________________.

WHEREAS: The White Mountain Apache Tribe recognizes child abuse, child neglect and child sexual abuse as a community problem that has a pervasive and lasting negative impact on the physical and mental well being of its children;

WHEREAS: The White Mountain Apache Tribe has established laws governing the reporting, investigation and prosecution of child abuse, child neglect and child sexual abuse as set forth in the White Mountain Apache Juvenile Code;

WHEREAS: It is in the best interests of child victims of abuse, neglect and sexual abuse when the entities responsible for investigation, prosecution and treatment coordinate their efforts, because such coordination lessens further trauma to the child victims;

WHEREAS: The White Mountain Apache Tribal Social Services, the Indian Health Services, the White Mountain Apache Tribal Juvenile Court, the Bureau of Indian Affairs Law Enforcement Division, the White Mountain Apache Tribal Police Department, the White Mountain Apache Tribal Guidance Center, the Federal Bureau of Investigation, and the educational system have specific roles and responsibilities in the reporting, investigation, prosecution and treatment of child abuse, neglect, and child sexual abuse;

WHEREAS: The above named agencies have developed a Child Protective Services Protocols Manual to promote the coordination of protective services to child victims in all phases of the process from reporting through case closure;

NOW THEREFORE BE IT RESOLVED THAT: The White Mountain Apache Tribal Council hereby formally approves the White Mountain Apache Tribe Child Protective Services Protocols Manual, and endorses the efforts of the above referenced service providers to protect our children while preserving the unity and strength of our Apache families.

ATTEST:

______________________________. ______________________________.

Ronnie Lupe Secretary Tribal Chairman

****

CERTIFICATION

I hereby certify that the foregoing resolution was adopted by the White Mountain Apache Tribal Council during a duly called, noticed and convened session assembled for business the________day of___________________,1992, with __________________members present to constitute a quorum, and by a vote of_______for and__________opposed.

___________________________________.

Secretary

WHITE MOUNTAIN APACHE TRIBE CHILD PROTECTIVE SERVICES PROTOCOLS MANUAL

I. INTRODUCTION

The White Mountain Apache Tribe believes its children are its most valuable resource. In keeping with this belief, the tribe supports efforts to preserve the unity, strength, and integrity of its children, families, extended families, and communities.

Incidents of child abuse, child neglect, and child sexual abuse are serious occurrences which undermine the unity and strength of the family. In order to protect its children from crimes against them, the White Mountain Apache Tribe has adopted a Juvenile Code, established the Tribal Social Services/Child Protective Services, and has supported many efforts within the community whose goal is the protection of tribal children from child abuse, child neglect, and child sexual abuse.

Federal and tribal laws exist which mandate the reporting, investigating, and prosecution of crimes against children. The unique nature of tribal government and the relationship between the tribe and the federal government has created a myriad of agencies who have been given mandates to respond when child abuse, child neglect, and child sexual abuse are alleged. Because many different service providers are called upon to respond to allegations of child abuse, child neglect, and/or child sexual abuse, it is imperative that service providers coordinate responses with each other, and that each understand the unique roles and responsibilities of all involved in the child protective service system.

This Protocols Manual is necessary to help minimize further trauma to child victims by the system which has been designed to protect them. The protocols in this manual have been developed to define roles and responsibilities, set timelines, and to determine the course of action to be followed by each entity within the child protective service system.

The underlying assumptions which governed the development of these protocols were that each entity involved in any aspect of child protective services should be a participant in the process, and that this manual should be written in clear and concise terms which are easily understood by anyone involved in the child protective services system (Child Protective Services Workers, Tribal Police, family, and community members, for example).

The protocols contained within this manual are the result of collaboration between entities within the community who must respond when child abuse, child neglect, and/or child sexual abuse is alleged. The Protocols Manual has been designed so that it can be amended as service provider priorities and tribal laws change. It is a working document, and as such should be amended periodically to incorporate new approaches and resources within the White Mountain Apache community.

II. AUTHORITY

The delivery of child protective services has been vested in the White Mountain Apache Tribal Social Services Department/Child Protective Services, which is duly sanctioned by the White Mountain Apache Tribal Council as outlined in the Council Resolution Number 83-71 signed by a majority of Tribal Council members on March 3, 1983.

III. REPORTING

Any person with reasonable suspicion or direct knowledge of the abuse, neglect, and/or sexual abuse of a child or children is required by tribal law to report the abuse, neglect, and or sexual abuse immediately to the Tribal Social Services Department/Child Protective Services or to the Tribal Police.

Public Law 101-630, the White Mountain Apache Criminal Code, and the White Mountain Apache Juvenile Code all contain specific laws governing the reporting of suspected child abuse, child neglect, and/or child sexual abuse.

Federal Reporting Laws

Public Law 101-630 of 25USC3203 Section 404 (Reporting Procedures) lists those persons mandated to report child abuse and states that:

A. Any person who

1. is a:

    a)physician, surgeon, dentist, podiatrist, chiropractor, nurse, dental hygienist, optometrist, medical technician, paramedic, or health care provider,

    b)teacher, school counselor, instructional aide, teacher's aide, teacher's assistant, or bus driver employed by any tribal, federal, public or private school,

    c)administrative officer, supervisor of child welfare and attendance, or truancy officer of any tribal, federal, public or private school,

    d)child day care worker, headstart teacher, public assistance worker, worker in a group home or residential or day care facility, or social worker,

    e)psychiatrist, psychologist, or psychological assistant,

    f)licensed or unlicensed marriage, family, or child counselor,

    g)person employed in the mental health profession, or

    h)law enforcement officer, probation officer, worker in a juvenile rehabilitation or detention facility, or person employed in a public agency who is responsible for enforcing statures and judicial orders:

2. knows, or has reasonable suspicion, that

    a)a child was abused in Indian country, or

    b)actions are being taken, or are going to be taken, that would reasonably be expected to result in abuse of a child in Indian country; and

3. fails to immediately report such abuse or actions described in the second paragraph to the local child protective services agency or local law enforcement agency,

shall be fined not more than $5,000 or imprisoned for not more than 6 months, or both.

B. Any person who

1. supervises, or has authority over, a person described in subsection (a)(1), and
2. inhibits or prevents that person from making the report described in subsection (a),

shall be fined not more than $5,000 or imprisoned for not more than 6 months, or both.

Tribal Reporting Laws

Chapter 11, section 11.1 of the White Mountain Apache Juvenile Code lists those persons mandated to report suspected abuse, neglect or abandonment as including:

> A. Any physician, hospital intern or resident, surgeon, dentist, osteopath, school personnel, social worker, peace officer, or any other person having responsibility for the care of children whose observations or examination of any minor discloses evidence of injury, sexual molestation, death, abuse, or physical neglect which appears to have been afflicted upon such minor by any other than accidental means or which is not explained by the available medical history as being accidental in nature, shall immediately report or cause reports to be made of such information to a Tribal Police Officer or to the Bureau of Indian Affairs Social Services or tribal designated Child Welfare Agency with 24 hours.

Section 11.5 of the White Mountain Apache Juvenile Code further states that those persons mandated to report a case of known or suspected abuse, neglect or abandonment pursuant to the Juvenile Code who knowingly fail to do so or willfully prevent someone else from doing so, upon a finding by the Tribal Court shall pay a civil penalty of not less than three hundred ($300) nor more than seven hundred fifty ($750) dollars.

Consistent with Public Law 101-630, the White Mountain Apache Criminal Code and the White Mountain Apache Juvenile Code state that persons or agencies reporting in good faith shall be immune from civil liability or criminal prosecution.

Reporting Procedures

The White Mountain Apache Tribal Social Services Department/Child Protective Services and the White Mountain Apache Tribal Police are the two entities identified within both Public Law 101-630 and the Tribal Criminal Code (Section 4.12) to receive immediate notification of all reports of suspected on known child abuse, child neglect, and/or child sexual abuse.

Tribal Social Services/Child Protective Services and the Tribal Police are mandated to take immediate action to secure the safety and well-being of the child or children involved in allegations of child abuse, child neglect, and/or child sexual abuse. Should one of the steps be to obtain emergency out-of-home placement of the child or children involved, the process employed will be in accordance with placement preferences identified in the Indian Child Welfare Act of 1978.

Notification

In keeping with Public Law 101-630, the notification process is:

- the Tribal Police and the Tribal Social Services/Child Protective Services personnel IMMEDIATELY NOTIFY EACH OTHER when a report of suspected child abuse, child neglect, and/or child sexual abuse is received, and
- the receiving agency will submit, when prepared, a copy of the written report to the other agency, and
- when the preliminary inquiry indicates that a criminal violation has occurred, the Bureau of Indian Affairs will immediately report the occurrence to the Federal Bureau of Investigation.

Jurisdiction

The White Mountain Apache Tribal Social Services Child Protective Services and the White Mountain Apache Tribal Police will respond to all reports involving suspected neglect, physical abuse, and/or sexual abuse of any child residing within the boundaries of the Fort Apache Reservation.

Written Reports

The Tribal Juvenile Code (Chapter 11 section 11.1) outlines the format for use by those persons mandated to report suspected or known child abuse, child neglect, and/or child sexual abuse. The format requires that a person mandated to report shall:

- immediately report or cause reports to a Tribal Police Officer or Tribal Social Services within twenty-four (24 hours), and
- such reports shall be made forthwith by telephone or in person, and shall be followed by a written report.

Such reports shall contain:

1] The names and addresses of the minor and his parents or person or persons having custody of such minor, if known,

2] The minor's age and the nature and extent of his injuries or physical neglect, including any evidence of previous injuries or physical neglect,

3] Any other information that such person believes might be helpful in establishing the cause of the injury or physical neglect.

The White Mountain Apache Tribal Social Services/Child Protective Services and the Tribal Police Department currently receive formal written referrals from local service providers through the use of a form entitled "White Mountain Apache Multi-Disciplinary Team for Children/Child Abuse and Neglect Referral Form". The multi-copy form is completed by the reporter and distributed to the following entities:

Tribal Social Services
Tribal Police
BIA Law Enforcement
IHS Social Services
FBI

The original copy of this form is received by Tribal Social Services/Child Protective Services, which has the responsibility for child protective services within the boundaries of the Fort Apache Reservation.

Public Law 101-630 further requires that the receiving agency must prepare a written report within thirty-six hours after receipt of a formal referral. This report includes:

A. the name, address, age, and sex of the child that is the subject of the report;
B. the grade and the school in which the child is currently enrolled;
C. the name and address of the child's parents or other person responsible for the child's care;
D. the name and address of the alleged offender;
E. the name and address of the person who made the report to the agency;
F. a brief narrative as to the nature and extent of the child's injuries, including any previously known or suspected dates of abuse; and
G. any other information the agency or the person who made the report to the agency believes to be important to the investigation and disposition of the alleged abuse.

Additionally, Public Law 101-630 requires that a final written report on any allegation of abuse be prepared upon completion of the investigation. The White Mountain Apache Tribal Social Services/Child Protective Services complies with the federal requirement through the completion of an Investigative Summary Form.

Confidentiality

Reporters of suspected child abuse, child neglect, and/or child sexual abuse have the right to remain anonymous, and to have the information contained within the reports submitted kept confidential.

25USC3205 of Public Law 101-630 addresses the sharing of information among service providers for investigative purposes when child abuse, child neglect, and/or child sexual abuse is alleged:

. . . agencies of any Indian tribe, of any State, or of the Federal Government that investigate and treat incidents of abuse of children may provide information and records to those agencies of any Indian tribe, any State, or the Federal Government that need to know the information in performance of

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their duties. For purposes of this section, Indian tribal governments shall be treated the same as other Federal Government entities.

WHITE MOUNTAIN APACHE TRIBE

AGENCY RESPONSE TO REPORTS OF CHILD ABUSE, CHILD NEGLECT, AND/OR CHILD SEXUAL ABUSE

STEP-BY-STEP PROCESS

REPORT IS MADE BY: Neighbor or
School Staff or
Extended Family or
Friend of Victim or
Anonymous Reporter

REPORT IS MADE TO: Tribal Social Services/Child Protective Services or
Tribal Police or
Indian Health Services or
School Teacher or Counselor or
Guidance Center Counselor or
BIA Employee or
Work Supervisor

REPORT IS SENT TO: Tribal Social Services/Child Protective Services
AND/OR Tribal Police
*who must IMMEDIATELY notify each other of the report

REPORT IS INITIALLY SCREENED BY:
Tribal Social Services/Child Protective Services

REPORT IS IMMEDIATELY INVESTIGATED BY:
Tribal Police and Tribal Social Services/Child Protective Services (if appropriate, and based on Priority Level)

REPORT IS STAFFED BY: WMAT Child Protection Team

WRITTEN INVESTIGATIVE REPORTS ARE COMPLETED BY:
Tribal Social Services/Child Protective Services
AND Tribal Police

WHEN SEXUAL ABUSE IS ALLEGED, REPORT IS MADE TO:
BIA Criminal Investigator/FBI AND WMAT Victim Advocate

IV. INVESTIGATION

In compliance with requirements of the White Mountain Apache Tribal Criminal Code and the Tribal Juvenile Code, the Tribal Social Services/Child Protective Services and the Tribal Police will conduct investigations into all reports alleging child abuse, child neglect, and/or child sexual abuse. Either of these two departments must immediately notify the other if it is the first to receive a report.

Initial Screening

Immediately upon receipt of a written or an oral report of suspected child abuse, child neglect, and/or child sexual abuse, the Tribal Social Services/Child Protective Services will complete an initial investigation of the report to determine whether or not further investigation is warranted.

Tribal Social Services/Child Protective Services sometimes receives reports from families, other community members, and community agencies which are not appropriate: e.g., to seek financial resources, for general information, or because the reporting party wishes to express concern about the POTENTIAL for abuse within a particular situation. When Tribal Social Services/Child Protective Services receives a report which is deemed inappropriate, an Information and Referral Form is completed, and a referral is made to a community agency which can address the concerns of the reporting party.

The first step in the investigative process involves an initial screening to determine the nature of the referral. The purpose of this initial screening is to obtain as much information from the referring party as possible. In addition to information contained within the written report (if available), the Tribal Social Services Child Protective Services Worker will contact the referral source for the following:

1. Name, age, and address of the child victim
2. Location of the child, if different from address given above
3. Name, address, and location of parent, guardian, or custodian of the child victim
4. Description of the incident

5. Location where incident occurred
6. Name (if known) of alleged perpetrator/offender
7. Relationship of referral source to victim
8. Determine whether referral source wishes to remain anonymous
9. Name, address, phone number of referral source if s/he does not choose to remain anonymous.

If it is determined after this initial screening that the referral involves an allegation of child sexual abuse, the Tribal Social Services Child Protective Services Worker and the Tribal Police Officer must initiate immediate contact with the Bureau of Indian Affairs Criminal Investigator. The TSS/CPS Worker will also notify the Tribal Victim Advocate through the use of a two-way memo. This memo will identify the child victim, give the home address of the victim, the name of parent/guardian, and the name of the assigned TSS/CPS Worker.

Priority Levels for Investigative Response

When allegations of child abuse, child neglect, and/or child sexual abuse are reported, a joint investigation will be conducted by Tribal Social Services/Child Protective Services and the Tribal Police. The White Mountain Apache Tribal Police will investigate all reports immediately to determine whether or not criminal violations of the law have occurred.

Priority Levels have been established with the Tribal Social Services/Child Protective Services to guide personnel in responding to allegations of child abuse, child neglect, and/or child sexual abuse. Depending upon the severity of the alleged abuse or neglect, the investigation conducted by Tribal Social Services Child Protective Services will take place immediately or within ten (10) days of receipt of the report:

Priority I Referrals

The following Priority I referrals shall be investigated either immediately or within 24 hours. Priority I cases shall be referrals of current abuse/neglect which places the child at risk at the time of the referral.

Death
Sexual Abuse
Brain Damage, skull fracture
Sexually Transmitted Diseases (young children)
Poisoning, noxious substances
Excessive Corporal Punishment

Burns, Scalding
Wounds
Subdural hematoma
Abandonment
Serious medical neglect
Tying/close confinement
Involving Children in Substitute Care
Drug/alcohol abuse which affects the child's well-being
Failure to Thrive
Bone Fractures
Malnutrition
Internal Injuries

Priority II Referrals

Priority II referrals are cases which must be investigated within 10 days and include the following:

Inadequate clothing
Inadequate Medical Care
Relinquishments
Inadequate Food
Inadequate shelter
Lack of Supervision/Caretaker
Serious Educational Neglect
Neglect which does not place the child at imminent risk
Priority I cases which are not immediate, and/or do not place child at imminent risk

Priority III Referrals

Priority III referrals are not investigated by Tribal Social Services Child Protective Services. They are referred to other services and may include the following types of cases:

1. Adolescent truancy, delinquency, school problems, sexual acting out (unless directly related to abuse or neglect)

2. Marital conflict, when it is the primary problem and confined to the parents, and there is no indication of child abuse/neglect

3. Parent/child conflict, with no indication of any type of child abuse/neglect

4. Neighborhood squabbles or problems between different families

5. Custody disputes in which there are no indications of any type of abuse or neglect

6. Reports which are clearly malicious complaints or are repeatedly unsubstantiated

7. Alcohol/drug abuse, unless directly related to abuse or neglect of children

8. Mental health issues such as suicide ideation, psychoses, schizophrenia, pathologic disorders, etc. (unless child is in custody of Tribal Social Services Child Protective Services)

9. Sexual abuse when the alleged perpetrator is not a member of the victim's family (Tribal Social Services Child Protective Services will assist law enforcement at their request)

Investigative Authority

Public Law 101-630 of 25USC 3206 in Section 407 Waiver of Parental Consent grants law enforcement and child protective services officials certain investigative authority

a)Examinations and interviews - Photographs, x-rays, medical examinations, psychological examinations, and interviews of an Indian child alleged to have been subject to abuse in Indian country shall be allowed without parental consent if local child protective services or local law enforcement officials have reason to believe the child has been subject to abuse.

b)Interviews by Law Enforcement and Child Protective Services Officials - In any case in which officials of the local law enforcement agency or local child protective services agency have reason to believe that an Indian child has been subject to abuse in Indian country, the officials of those agencies shall be allowed to interview the child without first obtaining the consent of the parent, guardian, or legal custodian.

c)Protection of Child - Examinations and interviews of a child who may have been the subject of abuse shall be conducted under such circumstances and with such safeguards as are designed to minimize additional trauma to the child and, where time permits, shall be conducted with the advice, or under the guidance, of a local multidisciplinary team. . .

Investigation Process

The White Mountain Tribal Social Services Child Protective Services Workers will investigate all accepted reports of child abuse, child neglect, and/or child sexual abuse for the purpose of assessing the SAFETY of the child or children involved, and to assess the family situation.

The appropriate law enforcement officials (White Mountain Apache Tribal Police Department, Bureau of Indian Affairs Law Enforcement, and/or the Federal Bureau of Investigation) will investigate all reports of child abuse, child neglect, and/or child sexual abuse for purposes of determining CRIMINAL WRONG-DOING, and to gather evidence for criminal prosecution of the alleged perpetrator/offender.

After securing necessary information from the referring party during the initial screening, the White Mountain Apache Tribal Social Services Child Protective Services Worker and the Tribal Police Officer assigned to the investigation will contact one another to determine the method in which the investigation will proceed. The Tribal Social Services Child Protective Services Worker and the appropriate law enforcement officer (whether Tribal Police or the Bureau of Indian Affairs Criminal Investigator) will JOINTLY determine who will be responsible for which interviews at the onset of the investigative process. This determination will be made following either a telephone conference or meeting held immediately after an accepted referral is received. Decisions will be reached regarding who will be interviewed, who will be the lead interviewer for each interview, what information must be gathered, and when each interview will be conducted. Each interview will be documented in writing by the lead interviewer, and all information gathered will be shared in an appropriate and timely manner.

An initial assessment will be made regarding the severity of the situation. If the child or children are in immediate danger, emergency custody will be initiated. According to the Tribal Juvenile Code (Chapter 7.2.B.), a social services department worker or law enforcement personnel have the power to remove a child to ensure his/her safety. If emergency custody is deemed necessary, the Juvenile Court must be verbally notified within six (6) hours.

Written notice to the Juvenile Court by the removing person must be made no later than the close of business the next court working day.

Arrangements for an immediate medical examination will be made if injuries are present, sexual abuse allegations have been made, or the child appears ill. These arrangements will be made by the Child Protective Services Worker, and will follow established procedures for examinations at the Whiteriver Public Health Service/Indian Health Services Hospital.

If a decision is made that the child or children are not in immediate danger, the Child Protective Services Worker and the Tribal Police will begin the investigative process based upon the Priority Level of the referral. In all cases the Child Protective Services Worker and the Tribal Police will allow sufficient time to complete a thorough investigation in order to accurately assess the child's situation.

As part of the investigative process, interviews will be conducted with as many sources with knowledge of the child, family, and circumstances as possible. All children in the home will be interviewed, as will the parents, guardians, or caretakers of the child or children. Extended family members who may have knowledge relevant to the alleged abuse will be contacted. Contacts with daycare centers, schools, or clinics will also be made. The perpetrator will be interviewed. Neighbors, other witnesses, and the person who reported the abuse (if known) will also be contacted.

Documentation

Data gathered during the investigative process will be documented in writing and will indicate:

- whether abuse, neglect,, and/or child sexual abuse has occurred, and the nature and extent of injury to the child or children
- whether or not and what type of crime has been committed
- identity of the alleged perpetrator
- whether other children in the home are victims
- whether the child or children need immediate protection and assistance

- what physical conditions, family problems or adult behavior contributed to, caused, or resulted in the abuse or neglect
- whether or not intervention by the Tribal Juvenile Court through the filing of a Protection Petition is necessary and appropriate.

IN ALL CASES, THE INVESTIGATIVE INTERVIEWING PROCESS WILL BE CONDUCTED IN A COORDINATED MANNER TO MINIMIZE FURTHER TRAUMA TO THE CHILD VICTIM(S).

Investigative Decision

All investigations initiated by the Tribal Social Services Child Protective Services are completed within thirty (30) days of receipt of a referral. When the investigation is completed, the Child Protective Services Worker and the appropriate law enforcement officer will confer to determine whether the alleged abuse, neglect, and/or child sexual abuse can be substantiated. Within ten days following completion of the investigation, a written investigative report will be completed by both the Child Protective Services Worker and the law enforcement officer (Tribal Police or the Bureau of Indian Affairs Criminal Investigator) assigned to the investigation.

An unsubstantiated case will:

1. be closed; and/or
2. the family will be referred to an appropriate resource agency for supportive services.

A substantiated case:

1. will be opened for services from the White Mountain Apache Tribal Social Services Child Protective Services; and
2. the criminal process for prosecution of the criminal offense will be initiated OR
3. may be closed after investigation is completed if it involves a single isolated incident, or is minor in nature. In such instances the family is referred by Tribal Social Services Child Protective Services to an appropriate treatment resource.

ALL REPORTS OF ALLEGED CHILD ABUSE, CHILD NEGLECT, AND/OR CHILD SEXUAL ABUSE RECEIVED BY THE TRIBAL SOCIAL SERVICES CHILD PROTECTIVE SERVICES AND THE TRIBAL POLICE OR BUREAU OF INDIAN AFFAIRS LAW ENFORCEMENT WILL BE REVIEWED BY THE WHITE MOUNTAIN APACHE CHILD PROTECTION TEAM.

V. ROLES AND RESPONSIBILITIES

This Protocols Manual has been developed to coordinate the efforts of all agencies within the boundaries of the Fort Apache Reservation who have a mandate to bcome involved in the child protective services process when child abuse, child neglect, and/or child sexual abuse are alleged. Clear understanding of roles and responsibilities for each tribal and federal entity involved in this process will lead to more effective joint efforts to protect White Mountain Apache children from abuse, neglect, and child sexual abuse.

Tribal Social Services Child Protective Services

The role of Tribal Social Services Child Protective Services in the White Mountain Apache child protection process is to protect and ensure the safety of the tribe's children while maintaining the integrity of the family.

It is the responsibility of the Tribal Social Services Child Protective Services to:

1. Receive reports of child abuse, child neglect, and child sexual abuse
2. Immediately contact the Tribal Police, and contact the Bureau of Indian Affairs Criminal Investigator if the referral alleges child sexual abuse
3. Document the receipt of these reports
4. Determine in conjunction with law enforcement the investigative interview process (i.e., who will be interviewed, who will conduct which interviews, when the interviews will take place) for each case
5. Assure the following sources are interviewed as soon as possible and separately or in joint interviews with the appropriate law enforcement official:
    the referral source

the child or children
witnesses
the alleged perpetrator/offender
other children in the home
the parents, guardian, or custodian of the child or children
the identified collateral contacts as appropriate

6. Check for any prior history of abuse either of the child or by the alleged offender

7. Make an assessment of the situation to determine the immediate safety of the child or children as well as the needs and dynamics of the family

8. Arrange for emergency custody if deemed necessary

9. Prepare a written investigative report within thirty-six (36) hours after receiving an initial report; share this report with the appropriate law enforcement agency

10. Present all reports received to the White Mountain Child Protection Team within 1-7 days of receipt

11. If case is substantiated, serve as case manager

12. Arrange appropriate medical care for the child or children

13. Arrange for psychological evaluations of the child and family if necessary

14. Coordinate treatment for the child and family

15. Document all appropriate data regarding the case in a case record

16. Provide the Juvenile Prosecutor with necessary documentation for use in filing a Protection Petition

17. Assist in preparing the child and the case for the court process

18. Testify in tribal, federal, and state court regarding the case when subpoenaed

19. Assure case activities and progress are reviewed on an ongoing basis as long as the case is opened for services.

Tribal Social Services Child Protective Services will coordinate its responsibilities with the appropriate law enforcement agency (Tribal Police, Bureau of Indian Affairs Law Enforcement, and/or the Federal Bureau of Investigation), and the White Mountain Apache Tribe's Child Protection Team.

Law Enforcement

The role of law enforcement officials in the child protection process is to protect tribal children from assault or gross neglect. In keeping with this role, law enforcement officials receive reports alleging child abuse, child neglect, and/or child sexual abuse, and gather investigative data to determine whether or not a criminal offense has been committed.

There are three law enforcement entities charged with the responsibility of investigating allegations of child abuse, child neglect, and child sexual abuse within the boundaries of the Fort Apache Reservation. These entities are:

- the White Mountain Apache Tribal Police Department
- the Bureau of Indian Affairs Law Enforcement/Criminal Investigations
- the Federal Bureau of Investigation

While each entity has specific responsibilities based upon the type of abuse alleged, in general it is the responsibility of any law enforcement official involved in the child protection process to:

1. Receive reports alleging child abuse, child neglect, and/or child sexual abuse
2. Immediately notify Tribal Social Services Child Protective Services when reports are received
3. Conduct investigations to determine criminal wrong-doing
4. Prepare necessary investigative reports
5. Assist in criminal prosecution
6. Provide the White Mountain Apache Tribal Child Protection Team with information regarding the criminal investigation and criminal prosecution of the perpetrator/ offender

Tribal Police

The role of the White Mountain Apache Tribal Police in the child protection process is to safeguard the community, particularly the children suspected of being victims of child abuse, child neglect, and child sexual abuse. Additionally the police are charged with gathering evidence for use in prosecuting alleged perpetrators/offenders.

The Tribal Police are responsible for:

1. receiving reports of alleged child abuse, child neglect, and child sexual abuse
2. immediately notifying the Tribal Social Services Child Protective Services of such reports
3. conducting immediate investigations into the allegations within each report
4. immediately notifying the Bureau of Indian Affairs Criminal Investigator when reports of child sexual abuse are received
5. serving as the lead investigative law enforcement agency when the crime is determined to be a misdemeanor
6. coordinating with Tribal Social Services Child Protective Services regarding the investigative interviewing process to determine who will conduct which interviews, when interviews will be conducted, and how each will be documented
7. providing protection for Tribal Social Services Child Protective Services Workers when necessary in the course of the investigative process
8. taking immediate emergency protective custody of child or children involved when a court order is not immediately available and such protective action is determined to be necessary to ensure the safety of the child or children
9. serving on the White Mountain Apache Tribal Child Protection Team, providing relevant information regarding prosecutorial status of the case when requested

Bureau of Indian Affairs Criminal Investigators

The role of the Bureau of Indian Affairs Law Enforcement Criminal Investigator is to uncover, investigate, and prepare reports on all situations involving physical and sexual abuse of juveniles living within the boundaries of the Fort Apache Reservation.

Cases requiring immediate report to the Bureau of Indian Affairs Law Enforcement Division include:

1. Incidents resulting in the death of a child
2. Cases involving mutliple victims
3. Allegations of "cover-ups"
4. Tribal Leader or Agency Superintendent involvement
5. Cases involving injury of a child in foster care, group care facility, or institutional placement (BIA, State, or Tribal)
6. Cases in which a child was injured in a BIA operated or Tribally contracted school facility
7. Allegations of any law enforcement wrondoing in the handling of a case

It is the responsibility of the Bureau of Indian Affairs Criminal Investigators to:

1. receive reports of child abuse, child neglect, and/or child sexual abuse
2. immediately notify Tribal Social Services Child Protective Services of receipt

of these reports

3. report the occurrence of criminal violations to the Federal Bureau of Investigations
4. initiate an investigation, coordinate investigative efforts with Tribal Social Services Child Protective Services and the Tribal Police

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5. take appropriate steps to secure the safety and well-being of the child or children involved

6. within twenty-four hours of receipt of a report, notify the Area Personnel Officer if the allegation involves a BIA employee, and notify the alleged perpetrator's supervisor, if the alleged perpetrator has routine contact or control over children

7. within thirty-six hours of receipt of a report, prepare a written report and submit a copy to the Tribal Social Service Child Protective Services

8. within three days (72 hours) of receiving a report, a preliminary investigation will be completed, and a written report will be submitted on Form BIA 6833 (Offense/Incident Form) to the Division of Law Enforcement Services, Central Registry

9. report the progress of the investigation on a biweekly basis until the case is closed to the following:

   -White Mountain Apache Tribal Child Protection Team
   -Area Personnel Officer (if BIA employee is involved)
   -Alleged perpetrator's supervisor
   -the Central Registry (on Form BIA 6833)

10. notify local school administrators on a monthly basis of all reports and incidents of child abuse, child neglect, and child sexual abuse affecting children in the administrators' respective schools

11. within 72 hours after a case is closed, submit a detailed report on whether the allegations have been satisfactorily resolved to:

    - the Central Registry
    - the White Mountain Apache Tribal Child Protection Team
    - Area Personnel Officer, if a BIA employee is involved, and
    - alleged perpetrator's supervisor

Federal Bureau of Investigation

The Federal Bureau of Investigation is primarily responsible for the investigation and presentation to the United States Attorney of matters involving aggravated sexual abuse with children and sexual contact with children.

When the Bureau of Indian Affairs Law Enforcement Criminal Investigator receives a report alleging child sexual abuse of a child or children under the age of twelve years, or reports of child abuse/child sexual abuse involving multiple victims, the Federal Bureau of Investigation is immediately notified. In these instances the law enforcement officials directly involved with the investigation work cooperatively with the Federal Bureau of Investigation Agent in gathering any information required for use in preparing the case for federal prosecution.

Child Protection Team

A Child Protection Team (CPT) has been formed within the White Mountain Apache Tribe under the auspices of the Inter-Agency Coordinating Council (IACC). This Child Protection Team has been sanctioned by the White Mountain Apache Tribal Council through the passage of a Tribal Resolution. The Child Protection Team represents the tribe's effort to strengthen the reporting, investigation treatment, and prosecutorial aspects of child abuse, child neglect, and child sexual abuse on the Fort Apache Reservation. The CPT is mandated to meet weekly to provide multi-disciplinary review of all reports alleging child abuse, child neglect, and child sexual abuse within the reservation.

Members of the White Mountain Apache Child Protection Team are professionals and para-professionals who represent the following entities:

Tribal Social Services/Child Protective Services Supervisor
Whiteriver Tribal Police Department
Indian Health Services - Medical Representative
Indian Health Services - Social Services Representative
Bureau of Indian Affairs Law Enforcement
Indian Health Services - Cibecue Clinic
Apache Tribal Guidance Center/Tribal Health Authority
School Representative
Tribal Prosecutor (as needed)
Federal Bureau of Investigations (as needed)
Juvenile Probation (as needed)
Tribal Education Representative (as needed)

It is the responsibility of the White Mountain Apache Child Protection Team to:

- review all referrals and active cases of child abuse, child neglect, and child sexual abuse
- review a Case Summary/Investigative Report, and identify resources to be involved
- make recommendations for a plan of action
- provide periodic review for all cases
- make available upon request the provision of assistance, and support for the case manager in order to facilitate a timely outcome.

Review by the Child Protection Team

The White Mountain Child Protection Team is mandated to meet weekly to review new referrals and progress on active cases of child abuse, child neglect, and child sexual abuse. The CPT will review the case to:

- assess referral and investigative information, child safety needs, and current disposition of the child (or children)
- identify appropriate community resources and/or community resources utilized, and to recommend referral
- when requested, make recommendations regarding:
  - * follow-up
  - * immediate treatment
- medical needs
- identify a date for follow-up review by the CPT

Follow-up Review

Within ninety (90) days, the White Mountain Child Protection Team will meet to review the case investigation, look into treatment and/or the progress of treatment. The team will update the recommendations regarding the case. Every active case will be reviewed at least every ninety (90) days, or more frequently, as warranted by decision of the Child Protection Team.

White Mountain Apache Tribal Victim Advocate

The role of the Victim Advocate is to assist clients in obtaining necessary services from Tribal agencies, and will provide logistical support to clients, to ensure appointments, meetings, court hearings etc., are attended.

It is the responsibility of the WMAT Victim Advocate to:

1. meet regularly with identified clients and their assigned therapist, to discuss the progress of the criminal investigation, and to identify and obtain those additional client services as part of the client's treatment plan,

2. provide or arrange for transportation services to project clients, where needed, to Court proceedings, appointments, and others relating to their victimization,

3. assist all clients in obtaining therapy upon referral from any source,

4. schedule regular contacts with each identified client, at least twice per month, to discuss the status of efforts and progress beings made to assist the client by all tribal agencies who may be involved in providing support services.

5. provide support to clients during all court proceedings,

6. assist the identified client in maintaining regular contact with the Prosecutor's Office, to obtain court hearing dates, staffing, depositions and other meetings related to the prosecution of the alleged perpetrator of the abuse, and,

7. document all contacts with other Tribal agencies, the client, and services delivered on the client's behalf.

Tribal Leaders

Tribal Leaders may include:

Tribal Chairman
Tribal Council Members
Tribal Department Heads/Program Directors

Tribal leaders could best serve the Child Protection System by:

1. participating in community activities dealing with child abuse and neglect problems, which shows the community that the tribal leaders are involved and concerned with these problems, and that the leaders place a high priority on the well-being of tribal children;
2. advocating for appropriate education and prevention programs to be developed and implemented for the schools, parents, and community;
3. assuring that quality safeguards are established so that good-faith reporting can be made without fear of retribution;
4. working to eliminate the jurisdictional problems and other conflicts which may occur between Tribal, BIA, State, and Federal agencies;
5. working to ensure that the Child Protection Team is functioning and provided with meaningful resources and support;
6. providing for a separation of powers between the Tribal government and the Tribal Court in order to safeguard child protection activities; and
7. initiating legislation to strengthen child protective services on the reservation through new laws, procedural guidelines, and innovative programs.

The United States Attorney's Office

The United States Attorney's Office, District of Arizona, will make its best efforts to see that child victims of crime, through a responsible parent/guardian and or other person with legal responsibility for the care, custody and control of the child, are accorded the rights described in the Federal Victim and Witness Protection Act of 1982, the Victim Rights and Restitution Act of 1990, and the Victims of Child Abuse Act of 1990.

1. Assistant U.S. Attorneys - During the prosecution of a crime, Assistant U.S. Attorneys, as designated and assigned, will make their best efforts to:

    A..provide ongoing advice and consultation regarding suspected cases of child sexual abuse that may be subject to federal prosecution;

B. appear in U.S. District Court, as required, in federal prosecutions arising out of child sexual abuse cases occurring in the White Mountain Apache Indian community;

C. consult and coordinate with the office of the tribal prosecutor to ensure the most effective use of prosecutorial resources in cases involving child sexual abuse;

D. obtain victim input regarding proposed terms of any negotiated pleas;

E. attend meetings of the Multi-disciplinary Team (White Mountain Apache Tribal Child Protection Team) involving cases referred for possible federal prosecution;

2. Victim Witness Program Staff

A. During the prosecution of a crime, (if the child victim or witness through a responsible parent/guardian and or other person with legal responsibility for the care, custody and control of the child has provided a current address or telephone number) the Victim Witness Program shall make diligent and reasonable efforts to consult with and provide the child victim/family the following notices and/or services:
1. referrals to emergency medical and/or social services; public and private programs which provide counseling, treatment, and other support;
2. victim compensation or court ordered restitution for which the child victim/family may be entitled under this or any other applicable law; and the manner in which such relief may be obtained;
3. the release or detention status of an offender or suspected offender pending judicial proceedings; or the placement of the offender in a pretrial diversion program; and the conditions thereof;
4. the filing of charges against a suspected offender;
5. the scheduling, including scheduling changes and/or continuances, of each court proceeding that the child victim or witness is either required to attend or entitled to attend;
6. the acceptance of a plea of guilty or nolo contendere or the rendering of a verdict after trial;
7. upon request, assist in notifying the school/employer of the child victim/family if cooperation in the prosecution of the crime causes his/her absence from school/work;

8. during court proceedings, provide a waiting area removed from and out of sight and hearing from the offender and defense witnesses;
9. the opportunity to present to the court in the presentence report, pursuant to the Victim Witness Protection Act of 1982, a Victim Impact Statement containing information concerning any harm, including financial, social, psychological and physical harm, done to or loss suffered by the child victim/family of the crime;
10. advocate fully to the court the rights of child victims/families, on the issue of restitution;
11. the date set for sentencing if the offender is found guilty; the sentence imposed including general information regarding the corrections process and supervised release;
12. after sentencing, assist in notifying the responsible official in the Bureau of Prisons of the child victim's/family's request for information regarding the defendant's early release data, furlough, transfer, mandatory release date while he/she is held in federal custody.

B. In addition, the Victim Witness Program Staff will make its best efforts to provide the following to the White Mountain Apache community:
   1. attend meetings of the Multi-disciplinary Team (White Mountain Apache Tribal Child Protection Team) involving cases referred for possible federal prosecution;
   2. upon request, and when resources are available, provide and/or assist in training concerning child abuse and victim witness related issues.

Medical Services

Medical personnel play a major role in detecting signs of possible child abuse/or neglect. They may also:

- provide useful education and information to Child Protection Team members on injuries to children, identifying injuries that may be accidental in nature and those injuries that appear non-accidental, and why.

- provide medical history of child and his family, identifying previous reports of abuse and/or neglect.

- assess appropriateness of reported reason for child's injuries; e.g., child's broken shoulder is due to his falling off the couch.

- assist in locating appropriate medical resources.

- monitor the healing process of child's injuries, and assess whether appropriate care is being given by caretaker.

The Whiteriver Service Unit/Indian Health Services

Whiteriver Service Unit Health Care Workers are all mandatory reporters of suspected child abuse or neglect. In addition, they are responsible for medical treatment, and referral for treatment (such as for mental health counseling). The White River Service Unit also provides social service and medical support and input to the White Mountain Apache Tribal Child Protection Team. Reporting laws entail cooperation with other designated agencies involved in the legal investigation of child abuse, neglect, and child sexual abuse while protecting confidentiality.

Emergency Patients

In emergency cases, timely transport to the hospital is warranted. Evaluation should proceed in a timely fashion. A phone call to the hospital (Social Services if during normal business hours, Emergency Room if not during those hours. , if possible, will facilitate appropriate care for the patient. If the Emergency Room is busy at the time, a back-up physician will be called in to help. Alternatively, during regular business hours, arrangements may be made to be seen in the outpatient clinic by a physician whose schedule has been cleared for just such a purpose.

The following characteristics are guidelines to decide whether a case of SCAN (Suspected Child Abuse or Neglect) constitutes a Medical Emergency:

- Assault or molestation occurring within the previous 72 hours.
- Evidence of physical or sexual abuse still visible on the body.
- Patient deemed to be still in danger (e.g. living in home where suspected perpetrator has access to child).
- Any concurrent medical or surgical emergency.

Persons who must transport a child to the hospital for an emergency medical examination SHOULD NOT have the patient bathe or change clothes, and should try to avoid allowing the child to urinate or defecate prior to arrival.

Once in the emergency room, a thorough history will be obtained from referral sources, available family and the child. A complete physical exam will be done and appropriate cultures taken. Any Chlamydia specimens must be sent for CULTURE and not ELIZA or slide tests, as these latter are not specific enough for legal purposes. If sexual abuse is suspected, and the most recent contact was within 72 hours, a "rape kit" will be used for the forensic specimens and the reporting. Because sexual abuse often goes undisclosed, and because victims of physical abuse are at high risk for sexual abuse as well, all exams should involve the genitalia, and cultures should be obtained in the majority of cases.

If abuse is indeed suspected, the White Mountain Apache Tribal Police and/or the White Mountain Apache Tribal Social Services Child Protective Services worker on call will be contacted to begin the investigation and to deal with disposition issues.

A written report will accompany telephone reports or will follow them by the end of the physician's shift. IHS Social Services will assist in the gathering of family data and in contacting appropriate agencies. The physical exam portion of the Physicians Report will be done on the Arizona Department of Economic Security reporting form (or the rape kit form), and attached to the face sheet of the White Mountain Apache Tribal Multi-disciplinary Team for Children form. Narrative reports from other health care workers may be included on the narrative portion of that form.

It is the responsibility of the attending physician to refer the child for safe placement. Admission for a seventy-two (72) hour hold, until a preliminary court hearing can be held, may be warranted in cases where protection of the child outside of the hospital cannot be guaranteed.

Non-Emergency Patients/Suspected Sexual Abuse: Child Wellness Clinic

Patients who are suspected victims of child abuse, but whose last contact with the perpetrator is known to be more remote than the previous seventy-two (72) hours, should be considered for the child sexual abuse clinic (to be known as the Child Wellness Clinic). It is generally best to schedule these patients in advance, so that preliminary data can be gathered, the child can be prepared for the exam, and the physician can also be prepared. These patients should be scheduled through IHS Social Services and the Child Wellness Clinic Coordinator.

The Coordinator is a nurse and/or social worker who has expressed interest and has been trained to do the following tasks:

- gather pertinent information from the referral source (usually the Tribal Police or Tribal Social Services Child Protective Services) to aid in focusing the exam;
- prepare the child for the exam, explaining the procedures and need for them to the child (should take 30-60 minutes prior to the exam);
- prepare the exam room and the specimens to be taken, filling out the appropriate paper work and labels;
- chaperone the child while in the exam room, if desired by the child;
- track the cases to ensure appropriate follow-up and treatment;
- this person will be the main contact person and will responsible for scheduling and running the clinic;
- ensure that the colposcope is available and that the charts are pulled, etc.

This clinic is staffed by specially trained phsyicians and is held one or two times monthly (more frequently as needed). Each initial visit will be scheduled for one hour of physician time. At least one follow-up visit will be scheduled with the same physician, and these may be for 30 minutes.

It should be noted that the history taken by the physician is primarily a medical one and is not intended to replace investigational interviews by law enforcement. The physician is in a unique position legally, however, and therefore any "excited utterances" should be charted verbatim and in quotes as these may be used in the judicial process.

Victims of physical abuse may be candidates for the Child Wellness Clinic if sexual abuse is even a remote possibility. They may be also serviced in the outpatient clinic. If this is the case, at least 30 minutes should be scheduled, and the physician should receive advanced notice as well as a history of the allegation.

Whiteriver Service Unit Social Services/Indian Health Services

The Social Services Department within the Whiteriver Service Unit consists of Social Workers and Social Work Associates. The Social Services staff have a key role in the hospital to identify, refer, and coordinate information regarding children suspected of being victims of abuse, neglect, and/or sexual abuse.

The Social Services staff will:

1. report all susupected child abuse and neglect referred to the office by community, medical, nursing, and social work staff from Indian Health Service or non-Indian Health Service facilities to Child Protective Services resources;
2. assist the Child Protective Services resources in obtaining immediate medical assessment and treatment for victims;
3. coordinate medical and social deocumented information with all appropriate Child Protective Services staff and law enforcement personnel;
4. participate in the Child Protection Team, and provide information (social assessment, identification of resources, home evaluation done or observations)
5. serve as the liaison for SCAN (Suspected Child Abuse or Neglect) referrals issued from the hospital to Child Protective Services resources (including law enforcement staff);
6. keep all information on SCAN (Suspected Child Abuse or Neglect) confidential. All referrals will be kept in locked cabinets.

Education

Educational entities within the White Mountain Apache Tribe include:

- school district representatives
- Alchesay High School
- Whiteriver Elementary School
- Whiteriver Middle School
- Bureau of Indian Affairs schools
- community run schools (contract and parochial)
- headstart and daycare
- school boards
- the Tribal Education Department

Persons within the educational system have a key role in identifying, referring and monitoring children suspected of being physically or sexually abused, and/or neglected. Educational representatives also have a unique opportunity to educate students regarding healthy parenting and family life.

The role of the individuals within the educational system is:

- to report all suspected incidents of child abuse, neglect, and/or child sexual abuse
- to provide emotional support for child victims in the classroom setting;
- to provide assistance in locating appropriate resources for the child, as needed, for example, special education classes, testing, tutors, counseling provided by the school;
- to monitor the child's emotional and academic status.
- A representative from the Whiteriver Elementary School also serves as a member of the White Mountain Apache Tribal Child Protection Team.

VI. JUVENILE COURT PROCESS

Emergency Custody

Chapter 4 Part 4 Section 4.1 (3) of the White Mountain Apache Tribe's Juvenile Code gives law enforcement personnel the power to take a child into emergency custody when he has reasonable grounds to believe that the child is suffering from illness or the child's surroundings are such as to endanger his health, morals or welfare, and that his removal is necessary.

During the course of an initial investigation, should the White Mountain Apache Tribal Child Protective Services Worker make an assessment that the child is in need of emergency custody, the worker will immediately recommend to the law enforcement officer conducting the criminal investigation that the child be taken into emergency custody.

Public Law 101-630 Section 404(2)(a) mandates that any local law enforcement agency or local child protective services agency that receives a report alleging abuse...shall immediately initiate an investigation of such allegation and shall take immediate, appropriate steps to secure the safety and well-being of the child or children involved.

Notice Provisions

The Tribal Juvenile Code Chapter 4 Section 4.2 requires that:

A. Any police officer who takes a child into custody without a court order shall immediately notify or attempt to notify the parents, guardian, or custodian.

B. In all cases where the parents, guardian or custodian of a child taken into custody without a court order can can be located and are willing and able to take the child under their care, the child shall be surrendered to their care pending any proceedings in the Juvenile Court.

C. Where a child has to be taken into custody without a court order, the police officer shall notify the judge of the Juvenile Court... and shall make such disposition of the child as directed by the judge....

Emergency Placement Options

When a child or children are taken into emergency custody, the following placement options are considered:

- relatives of the family who agree to accept the responsibility for the safety and welfare of the child or children, and whose home environment is approved by the Tribal Police Officer and/or Tribal Social Services Child Protective Services Worker assigned to the case,
- a licensed foster family
- a facility designed to care for and shelter such children and which is approved by the Tribal Social Services Department to provide such shelter (e.g., the Youth Group Home)

Chapter 4 Section 4.6 of the Tribal Juvenile Code states that a petition (sworn statement)shall be filed within twenty-four (24) hours excluding Saturdays, Sundays and legal holidays, and a hearing shall be held within twenty-four (24) hours from the time of the filing of the petition (excluding Saturdays, Sundays and legal holidays) to determine whether continued detention or shelter care is required. If this does not occur, or if the judge does not grant the petition for continued custody, the child or children placed in emergency custody will be released to the parent, guardian, or custodian.

When the issue of emergency custody has been resolved, and the safety of the child or children has been assured, the Juvenile Court Process continues in the manner set forth in the Tribal Juvenile Code for juvenile proceedings.

Petition

Once an investigative decision has been made that the report/allegation involves substantiated abuse, neglect, and/or sexual abuse, preparation will begin for a hearing to continue emergency custody, or to seek custody if it has not yet been granted. This preparation involves filing a petition.

The purpose of a petition is to ask the Juvenile Court to intervene on behalf of the child or children and to clearly state the allegations of abuse and/or neglect that make such intervention necessary. This petition must be prepared and filed in the Tribal Juvenile Court within twenty-four (24) hours if the child or children are in emergency custody. If the child or children have not been placed in emergency custody, and the Tribal Social Services Child Protective Services intends to pursue Tribal Juvenile Court intervention, it is the current practice of the Tribal Juvenile Court that a petition be prepared and filed within ten (10) days.

Summons

Chapter 3 Section 3.3 of the Tribal Juvenile Code states that after a petition has been filed, the Juvenile Court shall direct the issuance of summons: to the parents, guardian or other custodian. The summons requires the parents, guardian, or other custodian to appear before the court at a designated time to answer the allegations of the petition. The code further specifies under Section 3.4 that the summons shall be served upon the parents, guardian or other custodian at least 7 days before the hearing.

Initial Hearing

If a child (or children) is in emergency custody, a hearing will be held in Juvenile Court within twenty-four hours of filing of the petition. If the child or children are not in emergency custody, and Tribal Social Services/Child Protective Services is seeking physical and/or legal custody, a hearing will be held in Tribal Juvenile Court within twenty (20) days of the filing of the petition.

After hearing the evidence presented in the petition, the Juvenile Code Chapter 6 Section 6.3 states that the courts will make a decision to:

- dismiss the petition, and order the child discharged from any emergency custody, or
- enter into a stipulated agreement with the parents, guardians, or custodians of the child who admit to the allegations, or
- find that there is probable cause that the child or children has been neglected or abused.

Predispositional Study and Report

According to the Tribal Juvenile Code Chapter 6, Section 6.2, the Tribal Juvenile Court will order that a predisposition study and report be started after the filing of a petition. This report will cover information relative to the child, his family, his environment, and other matters relevant to the disposition of the case, and will be prepared by Tribal Social Services/Child Protective Services.

Adjudicatory/Dispositional Hearing

A. second hearing is held in Tribal Juvenile Court within thirty days (30) following the Initial Hearing. At this time the Tribal Social Services/Child Protective Services Worker will present the Predispositional Study and Report. According to Chapter 7 Section 7.1 of the Tribal Juvenile Code, if a child is found to be neglected the court may make any of the following orders of disposition to protect the welfare of the child:

1. permit the child to remain with his parents, guardian or other custodian, subject to such conditions and limitations as the court may prescribe;
2. place the child under protective supervision of the courts, while allowing the child to remain with the parents, guardians, or custodians,
3. transfer legal custody of the child to a tribal, state, federal, or other public agency responsible for the care of neglected children, provided that the child remains exclusively subject to the orders of the juvenile court,
4. continue the out-of-home placement of the child.

Review Hearings

The Tribal Juvenile Code Chapter 7 Section 7.5 states that the orders of the Juvenile Court will remain in force for an indeterminate period not exceeding one year from the date entered. Section 7.6 further states that these orders may be modified, revoked, or extended at any time prior to their expiration on motions made by institutions, agencies with legal custody, parents, guardians, custodians, or the child.

VII. CRIMINAL COURT PROCESS

The White Mountain Apache Tribe has enacted laws which make it a crime to physically abuse, neglect, and/or sexually abuse a child. When an allegation involving these types of offenses is substantiated, the usual process employed involves the Tribal Juvenile Court and civil proceedings to obtain custody of the child victim. If a decision is made by the Tribal Police or other Law Enforcement officer that a case involves criminal wrong-doing, and that it should be criminally prosecuted in Tribal Court, it is handled in the same manner as other criminal prosecutions before the Tribal Courts.

The White Mountain Apache Tribal Court has jurisdictional and sentencing limitations in prosecuting child abuse and neglect cases. The tribal court has no criminal jurisdiction to prosecute non-Indians. In addition the Major Crimes Act (18 U.S.C. s1153) provides that Federal courts have jurisdiction over 16 major crimes listed in the Act when committed by an Indian against the person or property of another Indian or non-Indian within the Fort Apache Reservation. The Major Crimes Act includes "felonious sexual molestation of a minor". The Federal Bureau of Investigation is primarily responsible for the investigation and presentation to the United States Attorney of cases involving Aggravated Sexual Abuse with Children and Sexual Contact with Children.

Proceedings in Tribal Court regarding prosecution for an offense can run concurrently with proceedings taking place in Federal court, and can also occur if the federal authorities fail to prosecute.

The Tribal Court is limited by the Indian Civil Rights Act sentencing limitation of no penalty or punishment for any one offense greater than imprisonment for a term of one year or a fine of $5,000, or both.

Criminal prosecutions in Tribal Court are initiated by the Tribal Police who may arrest the defendant and refer the case to the Tribal Prosecutor.

Definitions

The White Mountain Apache Criminal Code addresses child abuse and neglect in Chapter 4-Comprehensive Sex Crimes Act. Section 4.5 defines and classifies sexual conduct with a minor as:

A. A person commits sexual conduct with a minor by intentionally or knowingly engaging is sexual intercourse or oral sexual contact with any person who is under eighteen years of age.

B. Sexual conduct with a minor under fourteen years of age is a class 2 major offense and is punishable pursuant to s4.19. Sexual conduct with a minor fourteen years of age or over is a class 3 major offense.

Section 4.10 defines and classifies child abuse as:

A. Under circumstances likely to produce death or serious physical injury, any person who causes a child to suffer physical injury or having the care or custody of such child, causes or permits such child to be placed in a situation where its person or health is endangered is guilty of an offense as follows:

1. If done intentionally or knowingly, the offense is a class 1 major offense and if the victim is under fifteen years of age it is punishable pursuant to s4.19.
2. If done recklessly, the offense is a class 2 major offense.
3. If done with criminal negligence, the offense is a class 3 major offense.

B. Under circumstances other than those likely to produce death or serious physical injury to a child.... is guilty of an offense as follows:

1. If done intentionally or knowingly, the offense if a class 2 major offense.
2. If done recklessly, the offense is a class 3 major offense.
3. If done with criminal negligence, the offense is a class 1 minor offense.

The Tribal Criminal Code both defines and classifies child abuse, child neglect, and child sexual abuse (see Appendix).

Criminal Court Procedure

The criminal court process can be initiated by the filing of a complaint in Tribal Court, or upon the arrest of an individual. The Tribal Prosecutor submits to the Tribal Judge a complaint form describing the offense committed, the time and place of the crime alleged to have been committed, the name and description of the offender, and the section of the criminal code that has been allegedly violated.

The Tribal Judge determines whether or not there is sufficient evidence to establish probable cause. If there is insufficient evidence the complaint can be dismissed. If the Tribal Judge finds there is sufficient evidence to establish probable cause to believe that a crime has been committed by the person charged, the court can issue a warrant for the accused's arrest or issue a summons to appear before the court.

If an individual was arrested without a warrant or before the filing of a complaint, then there must be an Initial Appearance before the Tribal Judge within 24 hours. At the Initial Appearance the Tribal Judge determines if probable cause exists to continue to detain and prosecute the accused or if not to dismiss the prosecution and release the accused. The accused is informed of the charges against him/her and of his/her right to counsel.

The Tribal Judge can either hold the accused without bail or set the conditions of his/her release. An arraignment is set within the next ten days. At the arraignment the charges are read and the accused has an opportunity to answer the charges and enter a plea. The accused can plead guilty, not guilty, or no contest to the charges.

- If there is a plea of guilty or no contest, then the prosecutor and the defendant may negotiate the disposition of the case.
- If the defendant in custody pleads not guilty, then a trial is held within 120 days of the Initial Appearance or 90 days from the date of arraignment.
- If the defendant is not in custody and pleads not guilty, then a trial is held within 150 days of the Initial Appearance or 90 days from the date of arraignment.

If the defendant is found guilty of the charges and convicted he is sentenced according to the guidelines set forth in the White Mountain Apache Criminal Code Section 4.21 Sentencing.

As previously stated, the law enforcement personnel investigating child abuse, child neglect, and child sexual abuse allegations are investigating to determine whether or not CRIMINAL WRONG-DOING has occurred. Once the investigation is completed, the law enforcement personnel will make a determination as to whether or not a criminal offense has been committed.

In cases involving aggravated sexual assault of a child, the Bureau of Indian Affairs and the Federal Bureau of Investigation will submit the investigative report to the U.S. Attorney's for consideration for prosecution.

VIII. APPENDICES

Definitions - White Mountain Apache Criminal Code

Adult - A person who is eighteen (18) years of age or older.

Sexual Contact - Any contact of the actual or other private parts of another for the purpose of arousing or gratifying sexual desire or either party. Section 4.1E further defines sexual contact as meaning any direct or indirect fondling or manipulating of any part of the genitals, anus or female breast.

Assault With Intent To Commit Rape - A person who:

1. unlawfully attempts or threatens to cause bodily injury to a female person or,
2. willfully and unlawfully uses force or violence upon the person of a female, with intent to induce, coerce, or force such female person to submit to sexual intercourse with a person not her spouse, is guilty of an offense.

A person found guilty under this section (2.5-B White Mt. Criminal Code) may be sentenced to imprisonment for a period not to exceed one-hundred-eighty days (180) or to pay a fine not to exceed five-hundred dollars ($500) or both.

Child Abuse -

1. The infliction or allowing of physical injury, impairment of bodily function or disfigurement or the infliction of or allowing another person to cause serious emotional damage as evidenced by severe anxiety, depression, withdrawal or outward aggressive behavior and which emotional damage is diagnosed by a medical doctor or psychologist and which is caused by the acts or omissions of an individual having care, custody, and control of a child. Abuse shall include inflicting or allowing sexual abuse pursuant to S 4.4, of the White Mountain Apache Criminal Code, sexual conduct with a minor pursuant to S 4.5, sexual assault pursuant to S 4.6, molestation of a child pursuant to S 4.9, commercial sexual exploitation of a minor pursuant to S 4.13, sexual exploitation of a minor pursuant to S 4.14, incest pursuant to Chapter 2, or child prostitution.
2. **Child, youth, or juvenile** - an individual who is under the age of eighteen (18) years of age.

3. **Physical injury** - the impairment of physical condition and includes but shall not be limited to any skin bruising, bleeding, failure to thrive, malnutrition, burns, fracture of any bone, subdural hematoma, soft tissue swelling, injury to any internal organ or any physical conditions which imperils a child's health or welfare.

4. **Serious physical injury** - physical injury which creates a reasonable risk or death, or which causes serious or permanent disfigurement, or serious impairment of health or loss or protracted impairment of the function of any bodily organ or limb. Chapter 1.1(5) of the code defines serious bodily injury as physical injury which creates a substantial risk of death of which causes serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ.

Contributing To The Delinquency of A Minor - An adult person who:

1. knowingly causes, encourages or advises a minor to commit an offense as defined under the provisions of the tribal law and order codes; or

2. knowingly causes, encourages, or assists a minor to be delinquent as defined under the provisions of the Juvenile Code.

Comprehensive Sex Crimes Act - This Act is contained in Chapter Four of the White Mountain Apache Criminal Code, Page 25.

Failure To Send Children To School -

1. A person who, without good cause, fails or refuses to send his children or any other children under his care to school, while such children are between the ages of six and sixteen, is guilty of an offense.

Incest - A person who has sexual intercourse with another person knowing that he and such person are related as either:

1. parent and child, natural or adopted,
2. grandparents and grandchild (any degree),
3. brother and sister
4. uncle and niece,
5. aunt and nephew, or
6. first cousins.

Oral Sexual Contact - oral contact with the penis, vulva, or anus.

Sexual Conduct - actual or simulated:

1. sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex.
2. penetration of the vagina or rectum by any object except when done as part of a recognized medical procedure.
3. sexual bestiality.
4. masturbation, for the purpose of sexual stimulation of the viewer.
5. sadomasochistic abuse for the purpose of sexual stimulation of the viewer.
6. lewd exhibition of the genitals, pubic, or rectal areas of any person.
7. defecation or urination for the purpose of sexual stimulation of the viewer.

Sexual Contact - any direct or indirect fondling or manipulating of any part of the genitals, anus, or female breast.

Sexual Intercourse - penetration into the penis, vulva or anus by any part of the body or by any object or manual masturbatory contact with the penis or vulva.

Simulated - depicting the genitals or rectal areas which gives the appearance of sexual conduct or incipient sexual conduct.

Public Sexual Indecency To A Minor - A person commits public sexual indecency to a minor by intentionally or knowingly engaging in any of the following acts, if another person is present, and if the defendant is reckless about whether a person under the age of fifteen years is present:

1. an act of sexual contact
2. an act of oral sexual contact
3. an act of sexual intercourse
4. an act involving contact between the person's mouth, vulva or genitals and the anus or genitals or an animal.

Sexual Abuse - A person commits sexual abuse by intentionally or knowingly engaging in sexual contact with any person fourteen or more years of age without consent or that person or with any person who is under fourteen years of age if the sexual contact involves only the female breast.

Sexual Conduct With A Minor - A person commits sexual conduct with a minor by intentionally or knowingly engaging in sexual intercourse or oral sexual contact with any person who is under eighteen (18) years of age.

Molestation of Child - A person who knowingly molests a child under age of fourteen (14) years by directly or indirectly touching the private parts of such child or who causes a child under the age of fourteen years to directly or indirectly touch the private parts of such person is guilty of a class 2 major offense.

Duty To and Authorization To Report Non-accidental Injuries - Any physician, hospital intern or resident, surgeon, dentist, osteopath, chiropractor, podiatrist, county medical examiner, nurse, psychologist, school personnel, social worker, peace officer, parent counselor, clergyman, or priest, or any other person having responsibility for the care or treatment of children whose observation or examination of any minor discloses reasonable grounds to believe that a minor is or has been the victim of injury, sexual abuse, pursuant to S 4.4 - 4.6, or pursuant to S 4.9, or pursuant to S 4.13, abuse or physical neglect which appears to have been inflicted upon such minor by other than accidental means or which is not explained by the available medical history as being accidental in nature or who has reasonable grounds to believe there has been a denial or deprivation of necessary medical treatment or surgical care or nourishment with intent to cause or allow the death of an infant shall immediately report or cause reports to be made of such information to a peace officer or to the child protective services of the tribal social services.

> *A clergyman, priest, traditional medicine man or medicine woman who has received a confidential communication or a confession in his role as a clergyman, priest, or a traditional medicine man or medicine woman, in the course of the discipline enjoined by the church of which*

> *he or she belongs may withhold reporting of the communication or confession if the clergyman, priest, medicine man or medicine woman determines that it is reasonable and necessary within the concepts of the religion. This exemption applies only to the communication or confession and not to personal observations the clergyman, priest, traditional medicine man, or medicine woman may otherwise make of the minor.*

No report is required under S 4.12-C if conduct involves only minors age fourteen, fifteen, sixteen, or seventeen and there is nothing to indicate that the conduct other than consentual.

Commercial Sexual Exploitation of A Minor - A person commits commercial sexual exploitation of a minor by knowingly:

1. using, employing, persuading, enticing, inducing, or coercing a minor to engaging or assist others to engage in sexual conduct for the purpose of producing any visual or print medium or live act depicting such conduct.
2. using, employing, persuading, enticing, inducing or coercing a minor to expose the genitals or anus or the areola or nipple of the female breast for financial or commercial gain.
3. permitting a minor under such person's custody or control to engage in or assist others to engage in sexual conduct for the purpose of producing any visual or print medium or live act depicting such conduct.
4. transporting or financing the transportation of any minor through or across the White Mountain Apache Reservation with the intent that such minor engages in prostitution or sexual conduct for the purpose of producing visual or print medium of live at depicting such conduct.

Sexual Exploitation of A Minor -

1. Recording, filming, photographing, developing or duplicating any visual or print medium in which minors are engaged in sexual conduct.
2. Distributing, transporting, exhibiting, receiving, selling, purchasing, possessing or exchanging any visual or print medium in which minors are engaged in sexual conduct.

Definitions - White Mountain Apache Juvenile Code

Abandon - the leaving of minors without communication or failing to support a minor for a period of two years or more with no indication of the parent's willingness to assume the parental role.

Adult - a person aged eighteen (18) years or more.

Custodian - means a person other than a parent or guardian, to whom legal custody of the child has been given by court order or who is acting in loco parentis

Delinquency Act - an act which, if committed by an adult, would be designated a crime under an ordinance of the White Mountain Apache Tribe or against the State of Arizona.

Delinquent Child - a child who has committed an act of delinquency and is in need of care or rehabilitation.

Detention - the placement of a minor in a physically restrictive facility.

Emotional Abuse - the continued scapegoating and rejection of a specific child by his caretakers. The diagnostic criteria are:

1. severe psychopathology and disturbed behavior in the child documented by a psychiatrist, psychologist, or social worker;
2. treatment offered to the family on at least two occasions; and,
3. treatment refused by the parents at least twice.

Guardian - a person other than the minor's parents who is by law responsible for the care of that minor.

Guardian Ad Litem - a person appointed by the court to represent the minor's interests before the court.

Juvenile Court - the Juvenile Court of the White Mountain Apache Tribe.

Juvenile Offender - a person who commits a delinquent act prior to his/her eighteenth (18th) birthday.

Legal Custody - a legal status created by court order which vests in a custodian the right to have physical custody of the child or minor and to determine where and with whom he shall live and the right and duty to protect, train, and discipline him and to provide him with food, shelter, education, and ordinary medical care.

Minor - is a person under eighteen (18) years of age

Minor Child-In-Need-Of-Care - a minor who:

1. has no parent or guardian available and willing to take care of him or her;
2. has suffered or is likely to suffer a physical or emotional injury, inflicted by other than accidental means, which causes or creates a substantial risk of death, disfigurement, impairment of bodily functions, or emotional health;
3. has not been provided with adequate food, clothing, shelter, medical care, education, or supervision by his/her parent, guardian, or custodian;
4. has been sexually abused, or;
5. has been committing delinquent acts as a result of parental pressure, guidance or approval.

Child or Person in Need of Supervision - a child who:

1. being subject to compulsory school attendance, is habitually truant from school;
2. habitually disobeys the reasonable and lawful demands of his parents, guardian, or other custodian, and ungovernable and beyond their control;
3. has committed an offense not classified as criminal or one applicable only to children; and,
4. in any of the foregoing, is in need of care or rehabilitation.

Probation - a legal status created by court order following an adjudication of delinquency, whereby a minor is permitted to remain in his home subject to supervision and return to the Juvenile Court for violation of probation at any time during the period of probation.

Shelter Care - the temporary care of children in physically unrestricting facilities.

CPS TRAINING PROJECT
Family Case Studies

Case Study #1: The Childen-Never-Grow-Up Family

In this family there is a pattern in which the grown children (now adults and parents) remain in or close to their parents' home, and have difficulty functioning as competent adults. Often they are economically dependent on their parents or on welfare, and may have chronic alcohol and drug problems. Their parents may be over-involved in their lives, rescuing them from the consequences of their self-destructive behavior and undermining their attempts to live or work independently. Wives of alcoholic sons may be encouraged to tolerate abuse or irresponsibility and blamed if they attempt to remove themselves and/or children from being targets of abuse. There may be a strong mutual dependency between these adult children and their parents, where each is extremely dependent on the other to meet their needs, often in destructive ways. Their children may be chronically neglected and/or abused. Underlying these problems may be unresolved dependency and grief issues, difficulty finding suitable employment, and the dynamics which come into play around the disease of alcoholism.

Lorenzo and Sophie		Age:	28 and 29 respectively	
Children:	Luther	Age:	10	(Sophie's illegitimate son)
	Cory		7	(child of Sophie and Lorenzo)
	Tina		6	(Tina is a FAS child)
	Junior		2	
	Gina		6 mos.	(Gina is Lorenzo's child by another woman)

Lorenzo and Sophie live with Lorenzo's mother, Ada. Lorenzo is a laborer with sporadic employment. Sophie works at a local cafe and has odd working hours from day to day. The couple have a history of marital problems and recently Lorenzo has been involved with a 19-year-old woman who had his child. Both Sophie and Lorenzo abuse alcohol but have never been in treatment.

One day, Luther tells his teacher he doesn't want to go home after school is out. He complains that his father has been punishing him for bringing home low grades.

The teacher notes that the child is unkempt, wears soiled clothing and becomes aware that Luther has not eaten in 24 hours.

Case Study #1: The Childen-Never-Grow-Up Family

Questions for use in small group exercise:

Action

1. Based on information presented today regarding Protocols, what should happen FIRST?

2. What Priority Level is this referral? (Refer to TSS/CPS priorities) How soon can a response be expected from TSS?

3. Should the police be contacted?

4. What immediate steps can the teacher and the school take? (If TSS/CPS cannot respond immediately.)

5. What kind of follow-up information can the teacher and the school expect to receive?

6. Is it okay to feed the child and have a school official take him home?

7. What are the limitations of TSS? CPS role? What if the case is unsubstantiated? What can the school do if the police and TSS/CPS cannot substantiate the case?

Dynamics

1. If the case was substantiated and the family becomes part of the Child Protection System, what dynamics will affect the assessment and treatment planning for this family?

2. What services, if any, should/could Gina and her 19-year-old mother receive? Is this an open case? Are they part of the family system? Should their concerns be addressed? How?

3. What steps can the teacher take if s/he fails to see any improvement in the situation after the case is substantiated and open for services? How long should s/he wait before taking action?

Case Study #2: The Fringe Family

In one such example, a single mother from a dysfunctional family of origin was having significant parenting problems and was not being helped by the traditional community resources. She was isolated from the community because of her mixed tribal heritage (one parent was from the community, the other from another tribe), as well as the different tribal and non-tribal identities of the fathers of her four children. There was no consistent male figure in the home, and the fathers of the children were often irresponsible, abusing drugs and/or alcohol, and disapproved of by the community. The woman herself abused alcohol and drugs and had a series of abusive sexual partnerships. Since she had violated both the tribal boundary and ethical taboos, the tribe had limited interest in providing her or her children with help or support.

	Sherry	Age:	31
Children:	Terrance	Age:	11
	Celia		9
	Phyllis		8
	Jerry		6

One night, around 11:00 p.m., Terrance was picked up by the tribal police as he was riding his bike at the school-yard. When questioned by the officer, Terrance explained that his mother hadn't been home since the night before. He said he was coming home after working at the Dairy Queen that day and bringing food to his sisters at home.

The officer took Terrance home and found Phyllis at the house with Jerry. Phyllis said Celia had gone to an Aunt's house to call their mother. As the officer was talking to the children, Sherry came home accompanied by several of her friends. Shortly after that, Celia came home.

The police officer was quite familiar with Sherry's family, as over the years the department had received numerous referrals about her behavior, and the neglect, poor hygiene and nutrition of her children. These referrals have come from many sources, including her neighbors, the schools her children attend and her own relatives.

Case Study #2: The Fringe Family

Questions for use in small group exercise:

1. Based upon your knowledge of protocol, what steps should the police officer take FIRST?
   Who? What? When? Where?
2. How do service providers deal with their own reluctance to continue working with this family?
3. Do you think this is an active case with TSS/CPS?
4. How long to you think this case has been in the TSS/CPS system?
5. If you were the case manager at TSS/CPS what would you do?
6. How should the CPT handle this case?
7. What agencies need to be involved with this family?

Case Study #3: The Chronic-Problem Family

These families had typically been problematic and dysfunctional for generations: often they were labeled as such by their communities, which had given up attempting to help them and/or were exhausted by the families' constant crises and pleas for help. There were often generations of alcoholism, poverty, unemployment, physical and sexual abuse and dependency on outside resources (e.g. governmental or tribal funds). The families often showed patterns characteristic of families of alcoholics, including spouses and other family members who support and enable the alcoholic, and children who are parentified, neglected or function as the scapegoat of the family and act out family conflicts.

Elouise, 90, diabetic but physically active

1. Son, Joe, age 68 (suffers from cirrhosis, due to chronic alcoholism).
   Joe's wife, Helen, 67

   a. their daughter Louise, 46, employed as JTPA Coordinator, her children (father deceased):

      May, 32, employed as a store clerk, lives at home with Louise, has had a long-term lesbian relationship

      Arthur, 30, heavy drinker, constantly jailed for fighting, unemployed, lives in shack next door, health problems

      Junior, 29, in prison for rape

         May's daughter, Sheila, 15 was hospitalized for attempted suicide two years ago, now mother of 2-month-old girl

         Junior's children (mother relinquished - is an alcoholic)
         Pete, 11; Veronica, 10; Mavis, 9; Charlotte, 5

   b. their son, Henry, 40 and his wife Martha, 35, live next door with their grandchildren Phillip, 15 and Mark, 12. (Mother died in a car accident four years ago) Phillip has been caught drinking and is suspected of molesting his five-year-old cousin, Charlotte. Phillip has not attended school for the past six weeks.

Charlotte disclosed the molestation to her grandmother, Louise. Louise takes her grandchild to the Guidance Center immediately.

School counselor concerned about latest test results of Mavis, 9. Have referred often, knows there are problems within the family, but not to what extent.

Case Study #3: The Chronic-Problem Family

Questions for use in small group exercise:

1. Based on your knowledge of protocol, what will the Guidance Center Counselor do FIRST?
   Who? What? Where? When?
2. What priority level is this referral?
3. What do you think will occur when the CPT staff reviews this referral?
4. Where would you begin your assessment for case planning?
5. How would you coordinate services to this family?
6. Whose responsibility is it to coordinate this case?

Case Study #4: The Two-Worlds Family

The Two-Worlds family may be moderately functional and high achieving, with strong parents who have been successful in the Anglo culture. One or both parents may have some college education and/or may have adopted a religion different from the dominant tribal religion. While originally members of the tribe, they have adopted both tribal and non-tribal values and behaviors. Both the parents and the children as they reach adolescence and early adulthood, may experience identity issues and confusion, feeling alienated both from their tribe of origin and from the Anglo world as well.

Kennedy and Dianne Age: 35 and 30
Children: Charlie Age: 12
Melanie 8
Brian 4

Dianne was raised by her elderly grandmother who had suffered a stroke which has left her totally incapacitated. Dianne has taken on the responsibility of her complete care. The grandmother, who speaks Apache, and very limited English, lives with her eldest unmarried son, in the home she has lived in most of her life. Dianne commutes from her home in Pinetop to the reservation to care for her grandmother, since she is a registered nurse and the family and extended family relies heavily on her for help.

Kennedy is the HUD Regional Director for his area. His job keeps him traveling throughout a three-state area; in addition to his travels, Kennedy works long hours at the office. He has earned the respect of his extended family due to his professional status.

Charlie has been keeping company with a group of rowdy adolescent boys, who are much older than he. The teenagers have been in trouble with the law, school officials and other authority figures in Whiteriver.

Late one night, the gang is riding around town shooting a B-B gun at passing cars. A car is hit and the windshield is broken. The driver of the car identifies Charlie to the Tribal police as one of the assailants.

Melanie is taken to the IHS hospital when Dianne notices that her daughter has some type of vaginal discharge which is causing her pain when she urinates. Melanie will not talk to her mother about her problem, but discloses to the IHS physician that her great-uncle has been "hurting her" when she visits her great-grandmother.

Case Study #4: The Two-Worlds Family

Questions for use in small group exercise:

1. Based on your knowledge of protocol:
   a. in Charlie's case what should the police officer do FIRST?
   Who? What? When? Where?

   Should his case be referred to TSS/CPS?
   Why or why not?

   b. in Melanie's case, what will happen at IHS?
   What should the doctor who examines her do FIRST?
   Who? What? Where? When?

   1. Which law enforcement agency will conduct the investigation?
   2. When will TSS/CPS be contacted?
   3. Since the family lives in Pinetop, who has jurisdiction in this case?

2. What do you think is happening in this family?
   What ideas do you have for assessment and treatment?
   How receptive will the parents be to intervention by the child protective system?

MANAGING THE HOSTILE PARTICIPANT: A DIRECT APPROACH

1. MAINTAIN AND ENHANCE SELF-ESTEEM
2. LISTEN AND RESPOND WITH EMPATHY
3. CHECK FOR UNDERSTANDING
4. MAKE A PRODECURAL SUGGESTION
5. ASK FOR HELP IN SOLVING THE PROBLEM

Child Sexual Abuse in Native American Communities

Some facts about the occurrence of sexual
abuse of American Indian children;
information on causes and warning signs;
and examples of treatment and
prevention resources.

As part of its Linkages *project to disseminate information on topics considered vital to the welfare of American Indian children, the National American Indian Court Judges Association offers this brochure on the subject of sexual abuse of children. It is hoped that the information provided will increase awareness and understanding of the problem and contribute to prevention and intervention efforts.*

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Child Sexual Abuse in Native American Communities

In the last several years, child sexual abuse has become an issue of major concern throughout the United States. The statistics are startling.

Recent data suggests that, nationally, *at least* one out of every four girls, and one of every six to eight boys, are sexually molested by age 18. What's more, the facts show that more than 85 percent of the children identified as sexually abused are abused on a reoccurring basis, by someone known to them.

American Indian communities are not exempt from the problem of child sexual abuse. The limited statistics available indicate that American Indian communities experience child sexual abuse at approximately the same rate as do non-Indian communities.

With the idea that child sexual abuse can best be prevented through knowledge and awareness, the following pages provide answers to questions often asked about the subject.

WHAT IS CHILD SEXUAL ABUSE?

Child sexual abuse is a crime which, in the general population, falls within the province of the states. American Indian tribes, therefore, have the option of taking the child sexual abuse definitions provided by their respective states or they may, in order to satisfy their own community and law enforcement standards, create definitions within their tribal codes.

At present, the great majority of tribal codes do not define child sexual abuse but, as tribes continue to work toward establishing child protection jurisdiction, such definitions will become more common and legal prosecution and treatment of Indian child sexual cases within the tribal context will be made a lot easier.

TYPES OF CHILD SEXUAL ABUSE

	NON-CONTACT: Does not involve touching	• Obscene calls • Jokes • Peeping • Sexual propositions • Child pornography • Forcing child to watch sexual act or sexual violence
CONTACT: Involves some kind of touching	MANIPULATIVE: Touching which appears non hostile and which has been psychologically, rather than forcefully, imposed on child	• Unwanted hugs, kisses • Unwanted pinching, tickling • French kissing • Sexual positioning for photos • Handling genitals • Masturbation • Mouth to genital contact
	AGGRESSIVE: Sexual activity in which a child is physically forced to participate	• Oral rape • Vaginal rape • Anal rape • Sexual bondage • Sexual maiming

Most children who are sexually abused will, over time, experience more than one, and sometimes *all,* types of the abuse shown on the chart. The abuse will often begin with non-contact advances such as those listed in the upper right hand block and progress downward through the chart to subject the child to behaviors which involve increasingly more contact and greater violation.

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In the meantime, sexual abuse of Indian children can be simplistically defined as a situation in which an adult "uses" a child to satisfy a sexual need of the adult.

This abuse can take many forms. It may, but usually does not, involve physical force. It may involve various degrees and kinds of physical contact and touching. Or it may be totally non-contact in nature. Sexual abuse may be forced upon the child through *aggression* or it may be imposed through psychological *manipulation.* Whatever the case, the experience for the child is confusing, exploitative, age-inappropriate and frightening.

HOW DOES CHILD SEXUAL ABUSE HAPPEN?

Apart from the one-time sexual encounter with a stranger (such experiences account for only 5-10 percent of child sexual abuse), almost all child sexual abuse develops gradually with the offender slowly grooming, or preparing, the child.

Trust and time are used by the offender. Once abuse has occurred, the child feels responsibility, often reasoning that he/she is guilty because "I participated." The offender uses threats (often subtle) to silence the child and the child is manipulated into secrecy. The offender may say: "If you tell your mother, you will make her unhappy." "You will cause me to be sent away if you tell." "You'll get in trouble if you tell." The child is torn by wanting to stop what is happening and not wanting something bad to happen to himself, the family or the offender.

WHO COMMITS SEXUAL ABUSE OF CHILDREN?

In 9 out of 10 cases, a child is sexually abused by someone he or she knows. The abuser often has caretaking responsibilities for the child and is a person the child has been taught to trust. It appears that 35 percent of sexually abused children suffer from incest; that is, they are abused by family members.

By common definition, the offender need not be an adult, but is at least four years older than the child being abused. From currently available statistics, it appears that ninety percent of the time, the abuser is a male.

There are no clear explanations as to why any specific individual becomes a sexual offender, or a victim, while another does not. But it is possible to identify attitudes, experiences and situations which place individuals at-risk.

The child sexual abuser clearly has some sort of sexual attraction for children, although he/she may also have adult sexual partners. Still, it appears that other needs, in addition to sexual desires, turn the offender to the child. These may include the need to feel more sexually "able" or just to feel needed or liked.

When an individual exhibits the characteristics described above, he/she tends to be at-risk for committing child sexual abuse. This tendency, some suggest, is fueled by any additional situation which might make the at-risk person feel powerless. The additional stress created by feeling powerless further pushes the at-risk individual toward his child victim in an attempt to gain some feeling of control over life.

Finally, the individual who commits child sexual abuse often comes from a background which includes some sort of role model for abuse. Indeed, it appears that much of a child sexual offender's deviant behavior is learned.

None of these "explanations" excuses the actions of the sexual offender. The offender must be held fully responsible for the abuse he/she perpetrates.

ARE CERTAIN KINDS OF FAMILIES OR CHILDREN MORE AT-RISK FOR ABUSE?

Child sexual abuse happens to all kinds of families and children. It happens in rich families, poor families, Anglo families, Indian families. It happens in cities and on reservations.

But there are some factors which place certain families more at-risk than others. These higher risk families include those which are geographically or socially isolated, those in which there is special stress or dysfunction and those in which there are unrealistic expectations, rigid roles, poor communications, alcoholism, and/or any type of violence.

An especially high risk factor is a family history of previous sexual abuse. Child sexual abuse is often cyclical with abused children developing attitudes and expectations which sometimes cause them to see such abuse as normal. As adults, then, abused children have a higher risk of themselves abusing others or of tolerating abuse since it seems simply to be "the way things are."

DO SOCIETY'S ATTITUDES CONTRIBUTE TO CHILD SEXUAL ABUSE?

People who work with child sexual abuse offenders and victims suggest that there are cultural elements in society which help to set the stage for child sexual abuse.

For example, many child rearing concepts teach children to be submissive and unquestioning of adult authority. Prevalent sexist and racist attitudes can devalue young girls and boys and teach them to accept exploitation. If, additionally, a child suffers low self esteem or feels devalued for other reasons, submission and subservience may become even more pronounced. These characteristics increase a child's risk for victimization.

In addition, the secrecy which many communities award sexual topics perpetuates the problem of child sexual abuse. Indeed, the child victim may not "know" that what he/she is experiencing is out of the ordinary; or, if he does know, he may have well-learned that talking about *any* sexual subject is considered taboo. This attitude of secrecy isolates the victim, protects the abuser and perpetuates the abuse.

And finally, many families and communities are currently in a severe state of dysfunction. In many American Indian communities, for example, the extended family has broken down and traditional child-rearing practices no longer operate. A void exists which leaves both offenders and victims without guidelines by which they may measure the appropriateness of their behavior. It also leaves both without corrective resources to which they may turn.

As with any population, the occurrence of child sexual abuse in American Indian communities does *not* indicate that it is culturally sanctioned. Native Americans place high value on children and find the occurrence of child sexual abuse to be damaging, disgraceful and frightening.

ARE THERE SPECIAL PROBLEMS/RESOURCES WHEN SEXUAL ABUSE OCCURS IN NATIVE AMERICAN COMMUNITIES?

Native American communities seem to experience child sexual abuse at about the same rate as does the general population. But, yes, there are differences when abuse occurs in an Indian community. These differences can be both helpful and hindering.

One primary difference is that, in an Indian community, almost everyone knows everyone and most people are related in one way or another. On the negative side, this can foster denial and result in protection of the offender. On the other hand, there are few secrets in an Indian community, a fact which can help identify acts of sexual abuse. In addition, the closeness of the community can provide important support to the victim and can provide a vigilance which prohibits repetition of the abuse.

A special problem which many Native Americans face is the problem of getting appropriate legal and social services to any specific child sexual abuse case. This situation is caused by two primary factors.

First, because of past experiences in which they have been treated less than justly, many Indian people distrust the very legal, law enforcement and social authorities which are best equipped to help. Secondly, because of complicated questions of legal jurisdiction, it is often not clear what governmental entity actually has responsibility for cases which occur on a reservation. Difficulties in obtaining proper services and prosecution result.

In an attempt to solve these problems, some tribes have undertaken efforts to develop inter-governmental agreements with surrounding jurisdictions and agencies. These agreements help to establish cooperative relations and outline responsibilities and procedures for handling Indian child sexual abuse cases.

There are also special resources within Indian communities. For example, a tribal elder who is committed to the need for developing a sexual abuse prevention and treatment program can be tremendously effective in developing community support. A traditional talking circle, in which tribal members meet to share their thoughts on a particular subject in an atmosphere of trust and acceptance, can serve as a means through which a community can identify its standards concerning the protection of children. A "closed" talking circle, in which participants agree to keep the ideas expressed confidential, can provide a "safe" environment in which sexual abuse victims can find support. Or, when a legal sanction against an offender is unavailable, the tribal council may perhaps choose to use its traditional right to discharge the offender from the community.

WHAT CLUES MAY INDICATE THAT A CHILD IS BEING SEXUALLY ABUSED?

Usually, the child who is sexually abused will not clearly speak out and tell what is happening to him/her. And the indirect signals which a sexually abused child gives are often similar or identical to the signals given for other emotional traumas.

Nonetheless, there are a number of indicators which should alert us to, at least, the possibility of sexual abuse. These include: regressive behavior, withdrawal, abrupt behavior changes, new or excessive phobias, aggressive behavior, nightmares, depression, self-destructive behavior, school problems, alienation from family members, and running away.

Special attention should be given to the possibility of sexual abuse when a child shows excessive interest in the genitals, demonstrates sexual knowledge beyond what is appropriate for his/her age, is unwilling to dress down for P.E., exhibits bruises or irritations around the genital areas, demonstrates sexually seductive behavior, acts out sexually aggressive behavior, is promiscuous or becomes involved in prostitution.

If a child specifically makes statements that he/she is experiencing sexual abuse, the charge should be immediately and carefully investigated. Professionals who work with sexually abused children believe children almost never lie about being sexually abused.

WHAT IMPACT DOES SEXUAL ABUSE HAVE ON THE CHILD VICTIM?

Long-term impacts of sexual abuse will vary depending upon case specifics. The type of assault, the period of time involved, the child's interpretation of events, what happened when the abuse became known, and the treatment provided all influence the effect on the child. The most important determinant of the degree of damage appears to be *who* the abuser was. It seems the closer the relationship between the child and the abuser, the greater the damage. The damage, however, is always less if the child, upon disclosure, is believed and supported by other family members.

Many messages are transmitted to the sexually abused child. First, when the abuse is not recognized and stopped, the child feels isolated. Alone with the situation, the child reasons that the abuse must be "deserved": that he/she is not worthy of anything better. His/her self image drops and the child comes to feel powerless. These feelings often lead the abused child to do poorly in school, to be delinquent and/or to turn to alcohol, drugs, suicide or even to inflicting sexual abuse on others.

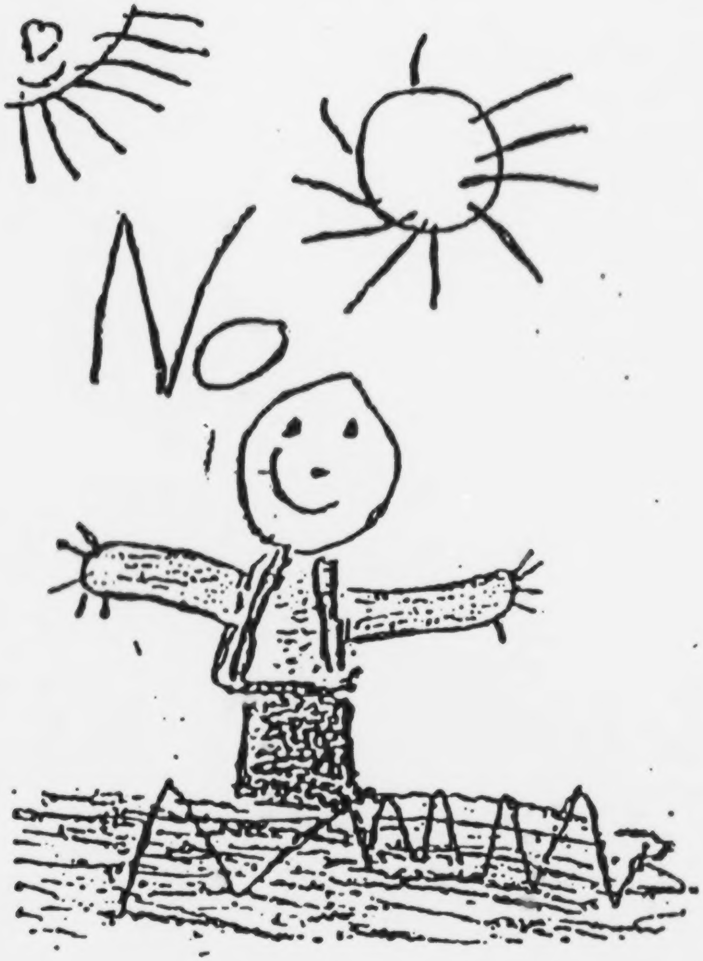
Sexually abused children have a high risk of growing into adults who cannot set appropriate boundaries for themselves. They often develop an inability to trust anyone and often have difficulty in maintaining or cultivating long-lasting personal relationships. Often their youthful abuse of drugs, alcohol and even food turns into adult addictions or disorders. Sexually abused children also have a higher than average risk for prostitution.

WHAT SHOULD BE DONE IF A CHILD REPORTS BEING SEXUALLY ABUSED?

It is very hard for a child to "tell" that he/she is being sexually abused. Almost always, the person he first tells is a person from the regular world around him, a person who is *not* professionally experienced in handling sexual abuse cases.

A child's first need after disclosing is to know that he/she will be believed, that he will not be blamed and that he will be protected. The adult to whom the child has chosen to talk can help most by remembering these guidelines.

- Stay calm. This will help calm the child and assure him/her that it is good that he told and that he will be listened to.
- Take the child to a quiet, safe place and allow him/her to talk. Do not



A happier world, as drawn by a 6-year old sexual abuse victim currently in therapy.

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probe for details. Statements like "I know it must be scary for you" or "I'm here to listen" will encourage the child to talk without feeling pressured.

- Tell the child that his/her situation is not unique, that this has happened to other children, and that he is still likable. Tell him there are people who will help and support him.
- Don't judge the offender or the offense. Children are often protective of those who abuse them.
- Report the disclosure immediately to tribal or state officials.
- Let the child know what will be happening. Not knowing is scary. If you don't know what will happen, ask authorities to explain the process to you so you can tell the child.
- Find someone who can help you with *your* feelings. Anyone who is confided in by a child about such a serious matter will likely need support handling the feelings that may arise for him/herself.

Ideally, when a case of child sexual abuse is reported to authorities, a responsible information gathering process will begin immediately. Wherever possible, this should be conducted by an individual trained specifically in working with sexual abuse cases and with children. When the child is Indian, the interviewer must also be culturally sensitive. Questioning the appropriateness of an interviewer is often necessary and, for the child's sake, should be done *before* the interview.

Any professional who interviews a child about possible sexual abuse will follow some simple guidelines. First, the interviewer will be careful not to show reaction or judgement concerning what is described. He or she will refer to body parts and sexual acts in the terms which the child uses, and will not exhibit distaste or shock. Moral statements will be avoided.

The child will be encouraged to feel safe in expressing his/her feelings, but the interviewer should be honest and let the child know that there is certain information that cannot be kept secret: that he/she will have to tell other authorities that the child has been hurt, so that the hurting can be stopped.

Anatomically correct dolls may be used when children between the ages of 2 and 13 are being interviewed. Through these dolls, which are available with Native American coloring, features and clothing*, a child can describe more exactly what he/she has experienced.

**Anatomically correct Native American dolls are available through an increasing number of sources. These sources include: Analeka Industries, Box 141, West Linn, OR 97068, Pat Cowan, c/o Providence Sexual Assault Center, Box 1067, Everett, WA 98206; and Tami Lucas, 5177 Old Redwood Hwy # 7, Santa Rosa, CA 95401.*

WHAT WILL HAPPEN TO THE CHILD ONCE HIS/HER ABUSE IS KNOWN?

In any case where a child has been—or is being—sexually abused, the well-being of that child is the first concern. His/her immediate safety must be assured. Where separation is necessary, it is almost always less traumatic to the child to remove the offender rather than the child. Whether the child is removed or not, he/she must be surrounded by people who will support him and believe his story.

Appropriate treatment for the sexually abused child must be planned according to case specifics. Where an Indian child is involved, members of the extended family can often be beneficially brought into the therapy. (These people may also need attention, but their issues must remain separate from the child's.)

Whatever therapy is chosen, efforts should be made to present it in a way which is harmonious with the child's cultural background. Native American children tend not to be very verbal so "talking therapy" is usually not very successful. Allowing the Indian child to occupy his/her hands with either play or art materials usually makes him more comfortable and provides a way through which feelings may be expressed.

WHAT IMPACT DOES CHILD SEXUAL ABUSE HAVE ON A COMMUNITY?

When children are sexually abused, the community itself suffers. Unrecognized and untreated child victims often grow up to be dysfunctional adults. Unchecked sexual abuse tends to be repeated generation after generation involving more and more people as time goes by.

Sexual abuse victims have poor self images and low expectations. They are used to being victimized and see victimization as a fact of life. The frame of mind created by sexual abuse perpetuates the existence of alcoholism, drug abuse, unemployment and violence in the community.

WHAT CAN A COMMUNITY DO TO STOP THE SEXUAL ABUSE OF CHILDREN?

Child sexual abuse is a community problem and, therefore, a community responsibility. Steps which a community can take include:

1. The community must make a public decision and statement that children have rights, that sexual abuse of children is not acceptable, and that it will not be tolerated.

2. The community must publicly admit that child sexual abuse does exist and can happen to its children. Statements by respected community members (elders, council members, religious leaders) providing personal testimony of abuse can be extremely effective in forcing a community to recognize that, yes, it does happen here.

3. An effort to educate adult and child community members about sexual abuse must be undertaken. Posters and educational materials displayed in tribal buildings, spot radio announcements, and discussions on council agendas are simple means of informing community members.

   A personal safety curriculum in schools can effectively reach children. Children should be taught:

   - *No one deserves to be abused.*
   - *Your body is your own: respect it.*
   - *You can say "No."*
   - *Talking about your feelings is important: tell*
   - *Abuse is not your fault.*
   - *You will be believed.*
   - *Help is available: you are not alone.*

4. Workable reporting mechanisms must be established. The community should demand that reliable reporting mechanisms be established whereby child sexual abuse will be adequately and fully reported to the appropriate child protection and/or law enforcement agency. The community should monitor this system to assure its proper functioning.

5. Effective systems must be available for protecting and treating child abuse victims. Multiple resources, pooled from different agencies, are almost always required. Coordination is essential.

   The community has a right to know what coordinating policies and procedures will be used. If these seem inappropriate or unworkable, changes are in order. Where necessary, cooperative agreements may need to be developed between agencies.

6. The community must assume a monitoring role to force accountability. The community, or its monitoring representative, must be aware of what actions professionals should properly take in investigating, prosecuting and treating child abuse cases and must insist that these actions be taken. Adequate training for law enforcement, social service and court personnel should be demanded to assure that personnel are properly equipped

to work sensitively and effectively with victims, families and offenders according to the customs and values of the Indian community.

7. The community must demand proper prosecution and handling of offenders by the appropriate jurisdiction. The development of an intergovernmental agreement outlining prosecution responsibilities and cooperation should be considered.

8. The community can provide public support to child victims through acknowledging the child's experience and reinforcing the message that the child is not to blame. Responsibility for the abuse should always be placed on the offender.

9. Indian communities may want to revitalize old traditions in dealing with sexual abuse. Banishment and various healing ceremonies can serve to protect the community's children and make them stronger while giving the offender the message that what he/she has done will not be tolerated.

This brochure was published by the *Linkages* project of the National American Indian Court Judges Association with funds from the Children's Bureau, Administration for Children, Youth and Families, Office of Human Development Services, U.S. Department of Health and Human Services. Hector Sanchez was the HHS Project Officer.

The text was written by *Linkages* Editor Nancy Gale based primarily on interviews with Cheryl Henderson Peters, Director of the Sexual Abuse Prevention and Treatment program of the Skokomish Tribe, Shelton, Washington and with social service staff from the Skokomish, Squaxin Island, and Quinault Nations in Washington State. Ms. Peters and Louise Zokan delos Reyes, Child Welfare Specialist for the Bureau of Indian Affairs' Division of Social Services, reviewed and helped edit the material.

The children in the cover illustration are drawn by Ruth Peters of Olympia, Washington.

Copies can be ordered, for mailing costs, from the National Indian Law Library, 1506 Broadway, Boulder, CO 80302.

August 1985

Public Health Service

Indian Health Service

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Indian Health Service, PHS, HHS.

ACTION: Publication of minor changes to systems of records notices.

SUMMARY: In accordance with Office of Management and Budget Circular No. A-130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals," the Indian Health Service (IHS) in the Public Health Service (PHS) is publishing minor changes to its notices of systems of records. The three IHS notices of systems of records are being published in their entirety.

SUPPLEMENTARY INFORMATION: IHS has completed the annual review of its systems of records and is publishing below (1) a table of contents which lists all active systems of records in IHS, and (2) the three IHS notices of systems of records in their entirety. Minor changes have been made to the previously published notices of systems of records. These changes reflect the elevation of IHS to agency status within PHS. The designation of IHS as a component agency within PHS went into effect on January 4, 1988. Revisions to systems of records numbers have been made as a result of this change. A revision of the introductory paragraph of the Routine Uses section of the Health and Medical Records Systems Notice, which reflects revisions to the Confidentiality of Alcohol and Drug Abuse Patient Records Regulations, 42 CFR Part 2, which became effective on August 10, 1987, has also been made. Minor changes which affect the public's rights or need to know, such as changes in the storage locations of records within the system or the addresses of system managers have also been made to all three systems notices where appropriate.

Date: October 27, 1988.

Robert McIlwain,

Associate Director, Office of Administration and Management.

Indian Health Service

Table of Contents

09–17–0001 Health and Medical Records Systems, HHS/IHS/OHP
09–17–0002 Indian Health Service Scholarship Programs/HHS/IHS/OHP
09–17–0003 Indian Health Service Staff Credentials and Privileges Records, HHS/IHS/OHP

09–17–0001

System name:

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None.

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Authority for maintenance of the system:

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Purposes:

The purposes of this system are:

1. To provide a description of a patient's illness, the treatment administered and results achieved, and to plan for future care of the patient.

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(a) To the National Center for Health Statistics, for its dissemination of aggregated health statistics for various ethnic groups;

(b) To the Assistant Secretary for Population Affairs to keep a record of the number of sterilizations provided through the use of Federal funds;

(c) To the Health Care Financing Administration for the documentation of IHS health care covered by the Medicare and Medicaid programs for third-party reimbursement; and

(d) To the Bureau of Support Services, Health Care Financing Administration, to determine the prevalence of end-stage renal disease among the American Indian and Alaska Native population and to coordinate the care of American Indian and Alaska Native patients with this condition.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

If an individual receives treatment, or referral for treatment, for alcohol or drug abuse, then the Confidentiality of Alcohol and Drug Abuse Patient Records Regulations, 42 CFR Part 2 may apply. In general under these regulations, the only disclosures of the alcohol or drug abuse record which may be made without patient consent are: (1) To meet medical emergencies (42 CFR Part D, § 2.51), (2) for research, audit, evaluation and examination (42 CFR Part D, §§ 2.52 and 2.53), (3) pursuant to a court order (42 CFR 2.61–2.67), and (4) pursuant to a qualified service organization agreement, as defined in 42 CFR 2.11. In all other situations, written consent of the patient is usually required prior to disclosure of alcohol or drug abuse information under the routine uses listed below.

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Individuals acting *in loco parentis* to minors, as well as parents, legal guardians, and custodians may act on behalf of the subject individual for purposes of giving consent for disclosures to others when it is determined that the subject individual is a minor who is unable to or cannot exercise with appropriate understanding, the right of consent by himself or herself.

1. Records may be disclosed to State, local or other authorized organizations which provide health services to American Indians and Alaska Natives, or provide third-party reimbursement or fiscal intermediary functions, for the purpose of planning for or providing such services, billing or collecting third-party reimbursements and reporting results of medical examination and treatment.

2. Records may be disclosed to Federal and non-Federal school systems which serve American Indians and Alaska Natives for the purpose of student health maintenance.

3. Records may be disclosed to organizations deemed qualified by the Secretary to carry out quality assessment, medical audits, or utilization review.

4. Records may be disclosed to authorized organizations, such as the United States Office of Technology Assessment, or individuals for conduct of analytical and evaluation studies sponsored by the IHS.

5. Records may be disclosed to a congressional office in response to an inquiry from that office made at the request of the subject individual.

6. A record may be disclosed for a research purpose, when the Department:

(a) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

(b) Has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring;

(c) Has required the recipient to—(1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except—(A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law;

(d) Has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

7. Information regarding the commission of crimes or the reporting of occurrences of communicable diseases, suspected or confirmed physical child abuse or neglect, births, or deaths, etc., may be disclosed by health providers and facilities to State and local agencies as required by State and local law. The disclosure of patient information on alcohol or drug abuse for purposes of criminal investigations or prosecution of the patient must be authorized by court order issued under 42 CFR 2.65.

8. Information regarding suspected cases of physical child abuse or neglect may be disclosed to members of community child protective teams (comprised of representatives of tribes, Bureau of Indian Affairs, a child protective service agency, the judicial system(s) (local, State, tribal), law enforcement officers (State, county, Tribal or local)) and IHS for the purposes of establishing a diagnosis, formulating a treatment plan, monitoring the plan, investigating reports of suspected physical child abuse or neglect and making recommendations to the appropriate court of competent jurisdiction. The disclosure of patient information on alcohol or drug abuse for purpose of criminal investigation or prosecution of the patient for suspected child abuse or neglect must be authorized by a court order issued under 42 CFR 2.65.

9. The Department may disclose information from this system of records to the Department of Justice, to a court or other tribunal, or to another party before such tribunal, when:

(a) HHS, or any component thereof; or

(b) Any HHS employee in his or her official capacity; or

(c) Any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so has agreed to represent the employee; or

(d) The United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or the other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

10. Records may be disclosed to the Bureau of Indian Affairs and its contractors for the identification of American Indian and Alaska Native handicapped children to permit that Bureau to carry out the Education for All Handicapped Children Act of 1975 (20 U.S.C. 1401 et. seq.).

11. Records may be disclosed to an IHS contractor for the purpose of computerized data entry or maintenance of records contained in this system. The contractor shall be required to maintain Privacy Act safeguards with respect to the receipt and processing of such records.

12. Records may be disclosed to a health care provider under contract to IHS (including tribal contractors) to permit the contractor to obtain health and medical information about the subject individual in order to provide appropriate health services to that individual. The contractor shall be required to maintain Privacy Act safeguards with respect to the receipt and processing of such records.

13. Records may be disclosed to the State of Alaska, Department of Health and Social Services (DHSS) (which supplies part or all of this information to IHS), in response to its request for patient summaries, portions of immunization registers, disease indices and other computer-generated medical summaries. This information assists DHSS in its provision of health care to the subject individual. Disclosure to the State of Alaska's DHSS is limited to information concerning its patients.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

File folders, ledgers, card files, microfiche, microfilm, punch cards, computer tapes, disk packs and automatic files.

Retrievability:

Indexed by name, record number, and SSN and cross-indexed. SSN is supplied on a voluntary basis.

Safeguards:

1. Authorized Users:

Access is limited to authorized IHS personnel and IHS contractors and subcontractors in the performance of their duties. Authorized personnel include: Medical records personnel, health care providers, authorized researchers, medical audit personnel, and health care team members.

2. Physical Safeguards:

Records are kept in locked metal filing cabinets or in a secured room at all times when not actually in use during working hours and at all times during nonworking hours. Magnetic tapes, disks, other computer equipment and other forms of personal data are stored in areas where fire and life safety codes are strictly enforced.

Telecommunication equipment (computer terminals, modems and disks) of the Patient Care Information System (PCIS) are maintained in locked rooms during nonworking hours. Combinations on door locks are changed periodically and whenever a PCIS employee resigns, retires or is reassigned.

3. Procedural Safeguards:

Within each facility a list of personnel or categories of personnel having a demonstable need for the records in the performance of their duties has been developed and is maintained. Procedures have been developed and implemented to review one-time requests for disclosure to personnel who may not be on the authorized user list. Proper charge-out procedures are followed for the removal of all records from the area in which they are maintained. Persons who have a need to know are entrusted with records from this system of records and instructed to safeguard the confidentiality of these records. They are to make no further disclosure of the records except as authorized by the system manager and permitted by the Privacy Act, and to destroy all copies or to return such records when the need to know has expired. Procedural instructions include the statutory penalties for noncompliance.

The following automated information systems (AIS) security procedural safeguards are in place for automated health and medical records maintained in the Patient Care Information System. A profile of automated systems security is maintained. Security clearance procedures for screening individuals, both Government and contractor personnel, prior to their participation in the design, operation, use or maintenance of IHS automated information systems are implemented. The use of current passwords and log-on codes are required to protect sensitive automated data from unauthorized access. Such passwords and codes are changed periodically. An automated audit trail is maintained. Only authorized IHS Data Processing Service Center staff may modify automated files in batch mode. Personnel at remote terminal sites may only retrieve automated data. Such retrievals are password protected.

Privacy Act requirements and specified Automated Information System security provisions are specifically included in contracts and agreements and the system manager or his/her designee oversee compliance with these contract requirements.

4. Implementing Guidelines:

DHHS Chapter 45–13 and supplementary Chapter PHS.hf:45–13 of the General Administraton Manual: and Part 6, ADP Systems Security," of the DHHS Information Resources Management Manual.

Retention and Disposal:

Patient listings which may identify individuals are maintained in IHS Area and Program Offices permanently. Inactive records are held at the facility which provided health services from three to seven years and then are transferred to the appropriate Federal Records Center. Monitoring strips and tapes (i.e., fetal monitoring strips and EEG and EKG tapes) which are not stored in the patient's official medical record, are stored at the health facility for one year and are then transferred to the appropriate Federal Records Center. (See Appendix 2 for Federal Record Center addresses.) Records are retained at the Regional Federal Records Centers for 25 years. Disposal methods include burning or shredding of hard copy and erasing of magnetic media.

System manager(s) and address:

Policy-Coordinating Official: Director, Division of Clinical and Preventive Health Services, Indian Health Service, 5600 Fishers Lane, Room 6A–55, Rockville, Maryland 20857.

See Appendix 1. The IHS Area/Program Office Directors and Service Unit Directors listed in Appendix 1 are System Managers.

Notification procedure:

General Procedure:

Requests must be made to the appropriate System Manager (IHS Area/Program Office Director or Service Unit Director). An individual who requests a copy of, or access to, a medical record shall at the time the request is made designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. Such a representative may be an IHS health professional. When an individual is seeking to obtain information about himself/herself which may be retrieved by a different name or identifier than his/her current name or identifier, he/she shall be required to produce evidence to verify that he/she is the person whose record he/she seeks.

No verification of identity shall be required where the record is one which is required to be disclosed under the Freedom of Information Act.

Requests In Person:

Identification papers with current photographs are preferred but not required. If a subject individual has no identification but is personally known to the designated agency employee, such employee shall make a written record verifying the subject individual's identity. If the subject individual has no identification papers, the responsible system manager or designated agency official shall require that the subject individual certify in writing that he/she is the individual whom he/she claims to be and that he/she understands that the knowing and willful request or acquisition of records concerning an individual under false pretenses is a criminal offense subject to a $5,000 fine. If an individual is unable to sign his/her name when required, he/she shall make his/her mark and have the mark verified in writing by two additional persons.

Requests By Mail:

Written requests must contain the name and address of the requester, his/her date of birth and at least one piece of information which is also contained in the subject record, and his/her signature for comparison purposes. If the written request does not contain sufficient information, the System Manager shall inform the requester in writing that additional, specified information is required to process the request.

Requests By Telephone:

Since positive identification of the caller cannot be established, telephone requests are not honored.

Parents And Legal Guardians:

Parents of minor children and legal guardians of legally incompetent individuals shall verify their own identification in the manner described above, as well as their relationship to the individual whose record is sought. A

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copy of the child's birth certificate or court order establishing legal guardianship may be required if there is any doubt regarding the relationship of the individual to the patient.

Record access procedures:

Same as Notification Procedures. Requesters should also provide a reasonable description of the record being sought. Requesters may also request an accounting of disclosures that have been made of their record, if any.

Contesting record procedures:

Write to the appropriate IHS Area/Program Office Director of Service Unit Director at his/her address specified in Appendix 1, and specify the information being contested, the corrective action sought, and the reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

Record source categories:

Patient and/or family members, IHS health care personnel, contract health care providers, State and local health care provider organizations, and Medicare and Medicaid funding agencies.

Systems exempted from certain provisions of the act:

None.

Appendix 1—System Managers and IHS Locations Under Their Jurisdiction Where Records Are Maintained

Director, Aberdeen Area Indian Health Service, Federal Building, 115 Fourth Avenue, SE., Aberdeen, South Dakota 57401
Director, Rapid City Service Unit, Rapid City Indian Hospital, Rapid City, South Dakota 57702
Director, Cheyenne River Service Unit, Eagle Butte Indian Hospital, Eagle Butte, South Dakota 57625
Director, Fort Berthold Service Unit, Minni-Tohe Indian Health Center, New Town, North Dakota 58763
Director, Fort Totten Service Unit, Fort Totten Indian Health Center, Fort Totten, North Dakota 58335
Director, Pine Ridge Service Unit, Pine Ridge Indian Hospital, Pine Ridge, South Dakota 57770
Officer in Charge, Wanblee Indian Health Center, Wanblee, South Dakota 57577
Director, Rosebud Service Unit, Rosebud Indian Hospital, Rosebud, South Dakota 57570
Director, Sisseton-Wahpeton Service Unit, Sisseton Indian Hospital, Sisseton, South Dakota 57262
Director, Wahpeton Indian School Health Center, Wahpeton, North Dakota 58075
Director, Standing Rock Service Unit, Fort Yates Indian Hospital, Fort Yates, North Dakota 58538
Director, McLaughlin Indian Health Center, McLaughlin, South Dakota 57642
Director, Turtle Mountain Service Unit, Belcourt Indian Hospital, Belcourt, North Dakota 58316
Director, Omaha-Winnebago Service Unit, Winnebago Indian Hospital, Winnebago, Nebraska 68071
Director, Yankton-Wagner Service Unit, Wagner Indian Hospital, Wagner South Dakota 57380
Director, Pierre Service Unit, Ft. Thompson Indian Health Station, Ft. Thompson, South Dakota 57339
Director, Pierre Indian School Health Center, c/o Ft. Thompson Indian Health Station, Ft. Thompson, South Dakota 57339
Director, Lower Brule Indian Health Center, Lower Brule, South Dakota 57584
Director, Bemidji Area Office, Indian Health Service, 203 Federal Building, Bemidji, Minnesota 56601
Director, Eastern Michigan Service Unit, Kincheloe Indian Health Center, Kincheloe, Minnesota 49788
Director, Leach Lake Service Unit, Cass Lake Indian Hospital, Cass Lake, Minnesota 56633
Director, Inger Indian Health Station, Inger Route, Deer River, Minnesota 56636
Director, Squaw Lake Indian Health Station, Squaw Lake, Minnesota 56681
Director, Ball Club Indian Health Station, Ball Club, Minnesota 56622
Director, Onigum Indian Health Station, Star Route, Walker, Minnesota 56484
Director, Red Lake Service Unit, Red Lake Indian Hospital, Red Lake, Minnesota 56671
Director, Ponemah Indian Health Station, Ponemah, Minnesota 56666
Director, White Earth Service Unit, White Earth Indian Health Center, White Earth, Minnesota 56591
Director, Naytahwauah Indian Health Station, Naytahwaush, Minnesota 56566
Director, Pine Point Indian Health Station, White Earth, Minnesota 56591
Director, Alaska Native Health Service, 250 Gambell Street, Third and Gambell Street, Anchorage, Alaska 99501
Director, Anchorage Service Unit, PHS, Alaska Native Medical Center, P.O. Box 107741, Anchorage, Alaska 99510
Director, Alaska Native Health Center, St. George Island, Alaska 99660
Director, Alaska Native Health Center, St. Paul Island, Alaska 99660
Director, Barrow Service Unit, Barrow Alaska Native Hospital, Barrow, Alaska 99723
Director, Southeast Area Regional Health Center, 3272 Hospital Drive, Juneau, Alaska 99801
Director, Kotzebue Service Unit, Kotzebue Alaska Native Hospital, Kotzebue, Alaska 99752
Director, Ketchikan Alaska Native Health Center, 3289 Tongass Avenue, Ketchikan, Alaska 99901
Director, Annette Islands Service Unit, Metlakatla Alaska Native Health Center, Box 428, Metlakatla, Alaska 99926
Director, Yukon-Kuskokwim-Delta Service Unit, Yukon-Kuskokwim-Delta Regional Hospital, Indian Health Service, Bethel, Alaska 99559
Director, Albuquerque Area Indian Health Service, 505 Marquette, NW., Suite 1502, Albuquerque, New Mexico 87102-0087
Director, Albuquerque Service Unit, Albuquerque Indian Hospital, 801 Vassar Drive, NE., Albuquerque, New Mexico 87106
Director, Isleta Indian Health Center, P.O. Box 428, Isleta, New Mexico 87022
Director, Jemez Indian Health Center, P.O. Box 256, Jemez Pueblo, New Mexico 87024
Chief Dental Program, IHS Dental Training Center, Southwestern Indian Polytechnical Inst., 9168 Coors Road, NW., P.O. Box 25927, Albuquerque, New Mexico 87125
Director, Indian School Health Center, Southwestern Indian Polytechnical Inst., 9168 Coors Road, NW., P.O. Box 25927, Albuquerque, New Mexico 87125
Director, Sandia Indian Health Station, Sandia, New Mexico 87047
Director, Santa Ana Indian Health Station, P.O. Box 580, Bernalillo, New Mexico 87004
Director, Zia Indian Health Station, General Delivery, San Ysidro, New Mexico 87053
Director, Mescalero Service Unit, Mescalero Indian Hospital, P.O. Box 210, Mescalero, New Mexico 88340
Director, Santa Fe Service Unit, Santa Fe Indian Hospital, 1700 Cerrillos Road, Santa Fe, New Mexico 87501
Director, Dulce Indian Health Center, Dulce, New Mexico 87528
Director, Taos Indian Health Center, Taos, New Mexico 87571
Director, Santa Clara Indian Health Center, P.O. Box 1322, Espanola, New Mexico 87532
Director, Santo Domingo Indian Health Station, Santo Domingo, New Mexico 87052
Director, San Juan Indian Health Station, San Juan, New Mexico 87566
Director, Cochiti Indian Health Station, Cochiti, New Mexico 87041
Director, San Felipe Indian Health Station, General Delivery, San Feline Pueblo, New Mexico 87001
Director, Southern Colorado-Ute Service Unit, P.O. Box 778, Ignacio, Colorado 81137
Director, Ignacio Indian Health Center, Ignacio, Colorado 81137
Director, Towaoc Indian Health Center, Towaoc, Colorado 81334
Director, White Mesa Indian Health Station, General Delivery, Towaoc, Colorado 81334
Director, Zuni-Ramah Service Unit, Zuni Indian Hospital, Zuni, New Mexico 87327
Director, Acoma-Canoncito-Laguna Service Unit, Acoma-Canoncito-Laguna Indian Hospital, P.O. Box 130, San Fidel, New Mexico 87049
Director, Laguna Indian Health Center, P.O. Box 199, New Laguna, New Mexico 87038
Director, Canoncito Indian Health Station, c/o Acoma-Canoncito-Laguna Indian Hospital, P.O. Box 130, San Fidel, New Mexico 87049
Director, Billings Area Indian Health Service, P.O. Box 2143, 711 Central Avenue, Billings, Montana 59103
Director, Blackfeet Service Unit, Browning Indian Hospital, Browning, Montana 59417

Public Health Service

Indian Health Service

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Indian Health Service, PHS, HHS.

ACTION: Publication of minor changes to systems of records notices.

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(b) To the Assistant Secretary for Population Affairs to keep a record of the number of sterilizations provided through the use of Federal funds;

(c) To the Health Care Financing Administration for the documentation of IHS health care covered by the Medicare and Medicaid programs for third-party reimbursement; and

(d) To the Bureau of Support Services, Health Care Financing Administration, to determine the prevalence of end-stage renal disease among the American Indian and Alaska Native population and to coordinate the care of American Indian and Alaska Native patients with this condition.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

If an individual receives treatment, or referral for treatment, for alcohol or drug abuse, then the Confidentiality of Alcohol and Drug Abuse Patient Records Regulations, 42 CFR Part 2 may apply. In general under these regulations, the only disclosures of the alcohol or drug abuse record which may be made without patient consent are: (1) To meet medical emergencies (42 CFR Part D, § 2.51), (2) for research, audit, evaluation and examination (42 CFR Part D, §§ 2.52 and 2.53), (3) pursuant to a court order (42 CFR 2.61–2.67), and (4) pursuant to a qualified service organization agreement, as defined in 42 CFR 2.11. In all other situations, written consent of the patient is usually required prior to disclosure of alcohol or drug abuse information under the routine uses listed below.

Individuals acting *in loco parentis* to minors, as well as parents, legal guardians, and custodians may act on behalf of the subject individual for purposes of giving consent for disclosures to others when it is determined that the subject individual is a minor who is unable to or cannot exercise with appropriate understanding, the right of consent by himself or herself.

1. Records may be disclosed to State, local or other authorized organizations which provide health services to American Indians and Alaska Natives, or provide third-party reimbursement or fiscal intermediary functions, for the purpose of planning for or providing such services, billing or collecting third-party reimbursements and reporting results of medical examination and treatment.

2. Records may be disclosed to Federal and non-Federal school systems which serve American Indians and Alaska Natives for the purpose of student health maintenance.

3. Records may be disclosed to organizations deemed qualified by the Secretary to carry out quality assessment, medical audits, or utilization review.

4. Records may be disclosed to authorized organizations, such as the United States Office of Technology Assessment, or individuals for conduct of analytical and evaluation studies sponsored by the IHS.

5. Records may be disclosed to a congressional office in response to an inquiry from that office made at the request of the subject individual.

6. A record may be disclosed for a research purpose, when the Department:

(a) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

(b) Has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring;

(c) Has required the recipient to—(1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except—(A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law;

(d) Has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

7. Information regarding the commission of crimes or the reporting of occurrences of communicable diseases, suspected or confirmed physical child abuse or neglect, births, or deaths, etc., may be disclosed by health providers and facilities to State and local agencies as required by State and local law. The disclosure of patient information on alcohol or drug abuse for purposes of criminal investigations or prosecution of the patient must be authorized by court order issued under 42 CFR 2.65.

8. Information regarding suspected cases of physical child abuse or neglect may be disclosed to members of community child protective teams (comprised of representatives of tribes, Bureau of Indian Affairs, a child protective service agency, the judicial system(s) (local, State, tribal), law enforcement officers (State, county, Tribal or local)) and IHS for the purposes of establishing a diagnosis, formulating a treatment plan, monitoring the plan, investigating reports of suspected physical child abuse or neglect and making recommendations to the appropriate court of competent jurisdiction. The disclosure of patient information on alcohol or drug abuse for purpose of criminal investigation or prosecution of the patient for suspected child abuse or neglect must be authorized by a court order issued under 42 CFR 2.65.

9. The Department may disclose information from this system of records to the Department of Justice, to a court or other tribunal, or to another party before such tribunal, when:

(a) HHS, or any component thereof; or

(b) Any HHS employee in his or her official capacity; or

(c) Any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so has agreed to represent the employee; or

(d) The United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or the other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

10. Records may be disclosed to the Bureau of Indian Affairs and its contractors for the identification of American Indian and Alaska Native handicapped children to permit that Bureau to carry out the Education for All Handicapped Children Act of 1975 (20 U.S.C. 1401 et. seq.).

11. Records may be disclosed to an IHS contractor for the purpose of computerised data entry or maintenance of records contained in this system. The contractor shall be required to maintain Privacy Act safeguards with respect to the receipt and processing of such records.

12. Records may be disclosed to a health care provider under contract to IHS (including tribal contractors) to permit the contractor to obtain health and medical information about the subject individual in order to provide appropriate health services to that individual. The contractor shall be required to maintain Privacy Act safeguards with respect to the receipt and processing of such records.

13. Records may be disclosed to the State of Alaska, Department of Health and Social Services (DHSS) (which supplies part or all of this information to IHS), in response to its request for patient summaries, portions of immunization registers, disease indices and other computer-generated medical summaries. This information assists DHSS in its provision of health care to the subject individual. Disclosure to the State of Alaska's DHSS is limited to information concerning its patients.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

File folders, ledgers, card files, microfiche, microfilm, punch cards, computer tapes, disk packs and automatic files.

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Retrievability:

Indexed by name, record number, and SSN and cross-indexed. SSN is supplied on a voluntary basis.

Safeguards:

1. Authorized Users:

Access is limited to authorized IHS personnel and IHS contractors and subcontractors in the performance of their duties. Authorized personnel include: Medical records personnel, health care providers, authorized researchers, medical audit personnel, and health care team members.

2. Physical Safeguards:

Records are kept in locked metal filing cabinets or in a secured room at all times when not actually in use during working hours and at all times during nonworking hours. Magnetic tapes, disks, other computer equipment and other forms of personal data are stored in areas where fire and life safety codes are strictly enforced.

Telecommunication equipment (computer terminals, modems and disks) of the Patient Care Information System (PCIS) are maintained in locked rooms during nonworking hours. Combinations on door locks are changed periodically and whenever a PCIS employee resigns, retires or is reassigned.

3. Procedural Safeguards:

Within each facility a list of personnel or categories of personnel having a demonstable need for the records in the performance of their duties has been developed and is maintained. Procedures have been developed and implemented to review one-time requests for disclosure to personnel who may not be on the authorised user list. Proper charge-out procedures are followed for the removal of all records from the area in which they are maintained. Persons who have a need to know are entrusted with records from this system of records and instructed to safeguard the confidentiality of these records. They are to make no further disclosure of the records except as authorized by the system manager and permitted by the Privacy Act, and to destroy all copies or to return such records when the need to know has expired. Procedural instructions include the statutory penalties for noncompliance.

The following automated information systems (AIS) security procedural safeguards are in place for automated health and medical records maintained in the Patient Care Information System. A profile of automated systems security is maintained. Security clearance procedures for screening individuals, both Government and contractor personnel, prior to their participation in the design, operation, use or maintenance of IHS automated information systems are implemented. The use of current passwords and log-on codes are required to protect sensitive automated data from unauthorized access. Such passwords and codes are changed periodically. An automated audit trail is maintained. Only authorized IHS Data Processing Service Center staff may modify automated files in batch mode. Personnel at remote terminal sites may only retrieve automated data. Such retrievals are password protected.

Privacy Act requirements and specified Automated Information System security provisions are specifically included in contracts and agreements and the system manager or his/her designee oversee compliance with these contract requirements.

4. Implementing Guidelines:

DHHS Chapter 45–13 and supplementary Chapter PHS.hf:45–13 of the General Administraton Manual; and Part 6, ADP Systems Security," of the DHHS Information Resources Management Manual.

Retention and Disposal:

Patient listings which may identify individuals are maintained in IHS Area and Program Offices permanently. Inactive records are held at the facility which provided health services from three to seven years and then are transferred to the appropriate Federal Records Center. Monitoring strips and tapes (i.e., fetal monitoring strips and EEG and EKG tapes) which are not stored in the patient's official medical record, are stored at the health facility for one year and are then transferred to the appropriate Federal Records Center. (See Appendix 2 for Federal Record Center addresses.) Records are retained at the Regional Federal Records Centers for 25 years. Disposal methods include burning or shredding of hard copy and erasing of magnetic media.

System manager(s) and address:

Policy-Coordinating Official: Director, Division of Clinical and Preventive Health Services, Indian Health Service, 5600 Fishers Lane, Room 6A–55, Rockville, Maryland 20857.

See Appendix 1. The IHS Area/Program Office Directors and Service Unit Directors listed in Appendix 1 are System Managers.

Notification procedure:

General Procedure:

Requests must be made to the appropriate System Manager (IHS Area/Program Office Director or Service Unit Director). An individual who requests a copy of, or access to, a medical record shall at the time the request is made designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. Such a representative may be an IHS health professional. When an individual is seeking to obtain information about himself/herself which may be retrieved by a different name or identifier than his/her current name or identifier, he/she shall be required to produce evidence to verify that he/she is the person whose record he/she seeks.

No verification of identity shall be required where the record is one which is required to be disclosed under the Freedom of Information Act.

Requests In Person:

Identification papers with current photographs are preferred but not required. If a subject individual has no identification but is personally known to the designated agency employee, such employee shall make a written record verifying the subject individual's identity. If the subject individual has no identification papers, the responsible system manager or designated agency official shall require that the subject individual certify in writing that he/she is the individual whom he/she claims to be and that he/she understands that the knowing and willful request or acquisition of records concerning an individual under false pretenses is a criminal offense subject to a $5,000 fine. If an individual is unable to sign his/her name when required, he/she shall make his/her mark and have the mark verified in writing by two additional persons.

Requests By Mail:

Written requests must contain the name and address of the requester, his/her date of birth and at least one piece of information which is also contained in the subject record, and his/her signature for comparison purposes. If the written request does not contain sufficient information, the System Manager shall inform the requester in writing that additional, specified information is required to process the request.

Requests By Telephone:

Since positive identification of the caller cannot be established, telephone requests are not honored.

Parents And Legal Guardians:

Parents of minor children and legal guardians of legally incompetent individuals shall verify their own identification in the manner described above, as well as their relationship to the individual whose record is sought. A

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copy of the child's birth certificate or court order establishing legal guardianship may be required if there is any doubt regarding the relationship of the individual to the patient.

Record access procedures:

Same as Notification Procedures. Requesters should also provide a reasonable description of the record being sought. Requesters may also request an accounting of disclosures that have been made of their record, if any.

Contesting record procedures:

Write to the appropriate IHS Area/Program Office Director of Service Unit Director at his/her address specified in Appendix 1, and specify the information being contested, the corrective action sought, and the reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

Record source categories:

Patient and/or family members, IHS health care personnel, contract health care providers, State and local health care provider organizations, and Medicare and Medicaid funding agencies.

Systems exempted from certain provisions of the act:

None.

Appendix 1—System Managers and IHS Locations Under Their Jurisdiction Where Records Are Maintained

Director, Aberdeen Area Indian Health Service, Federal Building, 115 Fourth Avenue, SE., Aberdeen, South Dakota 57401
Director, Rapid City Service Unit, Rapid City Indian Hospital, Rapid City, South Dakota 57702
Director, Cheyenne River Service Unit, Eagle Butte Indian Hospital, Eagle Butte, South Dakota 57625
Director, Fort Berthold Service Unit, Minni-Tobe Indian Health Center, New Town, North Dakota 58763
Director, Fort Totten Service Unit, Fort Totten Indian Health Center, Fort Totten, North Dakota 58335
Director, Pine Ridge Service Unit, Pine Ridge Indian Hospital, Pine Ridge, South Dakota 57770
Officer in Charge, Wanblee Indian Health Center, Wanblee, South Dakota 57577
Director, Rosebud Service Unit, Rosebud Indian Hospital, Rosebud, South Dakota 57570
Director, Sisseton-Wahpeton Service Unit, Sisseton Indian Hospital, Sisseton, South Dakota 57262
Director, Wahpeton Indian School Health Center, Wahpeton, North Dakota 58075
Director, Standing Rock Service Unit, Fort Yates Indian Hospital, Fort Yates, North Dakota 58538
Director, McLaughlin Indian Health Center, McLaughlin, South Dakota 57642
Director, Turtle Mountain Service Unit, Belcourt Indian Hospital, Belcourt, North Dakota 58316
Director, Omaha-Winnebago Service Unit, Winnebago Indian Hospital, Winnebago, Nebraska 68071
Director, Yankton-Wagner Service Unit, Wagner Indian Hospital, Wagner South Dakota 57380
Director, Pierre Service Unit, Ft. Thompson Indian Health Station, Ft. Thompson, South Dakota 57339
Director, Pierre Indian School Health Center, c/o Ft. Thompson Indian Health Station, Ft. Thompson, South Dakota 57339
Director, Lower Brule Indian Health Center, Lower Brule, South Dakota 57548
Director, Bemidji Area Office, Indian Health Service, 203 Federal Building, Bemidji, Minnesota 56601
Director, Eastern Michigan Service Unit, Kincheloe Indian Health Center, Kincheloe, Minnesota 49788
Director, Leech Lake Service Unit, Cass Lake Indian Hospital, Cass Lake, Minnesota 56633
Director, Inger Indian Health Station, Inger Route, Deer River, Minnesota 56636
Director, Squaw Lake Indian Health Station, Squaw Lake, Minnesota 56681
Director, Ball Club Indian Health Station, Ball Club, Minnesota 56622
Director, Onigum Indian Health Station, Star Route, Walker, Minnesota 56484
Director, Red Lake Service Unit, Red Lake Indian Hospital, Red Lake, Minnesota 56671
Director, Ponemah Indian Health Station, Ponemah, Minnesota 56666
Director, White Earth Service Unit, White Earth Indian Health Center, White Earth, Minnesota 56591
Director, Naytahwaush Indian Health Station, Naytahwaush, Minnesota 56566
Director, Pine Point Indian Health Station, White Earth, Minnesota 56591
Director, Alaska Native Health Service, 250 Gambell Street, Third and Gambell Street, Anchorage, Alaska 99501
Director, Anchorage Service Unit, PHS, Alaska Native Medical Center, P.O. Box 107741, Anchorage, Alaska 99510
Director, Alaska Native Health Center, St. George Island, Alaska 99660
Director, Alaska Native Health Center, St. Paul Island, Alaska 99660
Director, Barrow Service Unit, Barrow Alaska Native Hospital, Barrow, Alaska 99723
Director, Southeast Area Regional Health Center, 3272 Hospital Drive, Juneau, Alaska 99801
Director, Kotzebue Service Unit, Kotzebue Alaska Native Hospital, Kotzebue, Alaska 99752
Director, Ketchikan Alaska Native Health Center, 3289 Tongass Avenue, Ketchikan, Alaska 99901
Director, Annette Islands Service Unit, Metlakatla Alaska Native Health Center, Box 428, Metlakatla, Alaska 99926
Director, Yukon-Kuskokwim-Delta Service Unit, Yukon-Kuskokwim-Delta Regional Hospital, Indian Health Service, Bethel, Alaska 99559
Director, Albuquerque Area Indian Health Service, 505 Marquette, NW., Suite 1502, Albuquerque, New Mexico 87102-0097
Director, Albuquerque Service Unit, Albuquerque Indian Hospital, 801 Vassar Drive, NE., Albuquerque, New Mexico 87106
Director, Isleta Indian Health Center, P.O. Box 428, Isleta, New Mexico 87022
Director, Jemez Indian Health Center, P.O. Box 256, Jemez Pueblo, New Mexico 87024
Chief Dental Program, IHS Dental Training Center, Southwestern Indian Polytechnical Inst., 9168 Coors Road, NW., P.O. Box 25927, Albuquerque, New Mexico 87125
Director, Indian School Health Center, Southwestern Indian Polytechnical Inst., 9168 Coors Road, NW., P.O. Box 25927, Albuquerque, New Mexico 87125
Director, Sandia Indian Health Station, Sandia, New Mexico 87047
Director, Santa Ana Indian Health Station, P.O. Box 580, Bernalillo, New Mexico 87004
Director, Zia Indian Health Station, General Delivery, San Ysidro, New Mexico 87053
Director, Mescalero Service Unit, Mescalero Indian Hospital, P.O. Box 210, Mescalero, New Mexico 88340
Director, Santa Fe Service Unit, Santa Fe Indian Hospital, 1700 Cerrillos Road, Santa Fe, New Mexico 87501
Director, Dulce Indian Health Center, Dulce, New Mexico 87528
Director, Taos Indian Health Center, Taos, New Mexico 87571
Director, Santa Clara Indian Health Center, P.O. Box 1322, Espanola, New Mexico 87532
Director, Santo Domingo Indian Health Station, Santo Domingo, New Mexico 87052
Director, San Juan Indian Health Station, San Juan, New Mexico 87566
Director, Cochiti Indian Health Station, Cochiti, New Mexico 87041
Director, San Felipe Indian Health Station, General Delivery, San Felipe Pueblo, New Mexico 87001
Director, Southern Colorado-Ute Service Unit, P.O. Box 778, Ignacio, Colorado 81137
Director, Ignacio Indian Health Center, Ignacio, Colorado 81137
Director, Towaoc Indian Health Center, Towaoc, Colorado 81334
Director, White Mesa Indian Health Station, General Delivery, Towaoc, Colorado 81334
Director, Zuni-Ramah Service Unit, Zuni Indian Hospital, Zuni, New Mexico 87327
Director, Acoma-Canoncito-Laguna Service Unit, Acoma-Canoncito-Laguna Indian Hospital, P.O. Box 130, San Fidel, New Mexico 87049
Director, Laguna Indian Health Center, P.O. Box 199, New Laguna, New Mexico 87038
Director, Canoncito Indian Health Station, c/o Acoma-Canoncito-Laguna Indian Hospital, P.O. Box 130, San Fidel, New Mexico 87049
Director, Billings Area Indian Health Service, P.O. Box 2143, 711 Central Avenue, Billings, Montana 59103
Director, Blackfeet Service Unit, Browning Indian Hospital, Browning, Montana 59417

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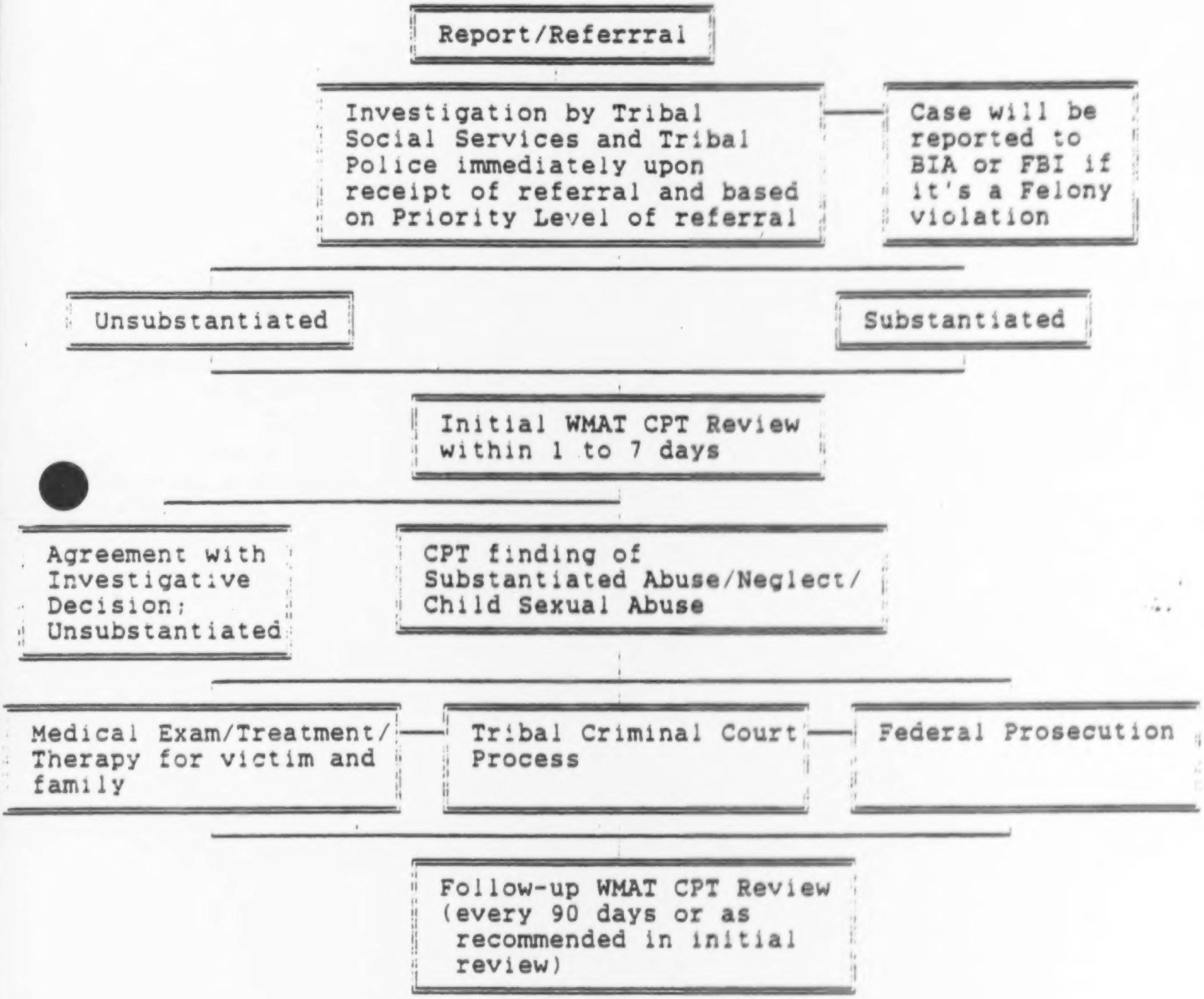
WHITE MOUNTAIN APACHE TRIBE

CHILD PROTECTION TEAM
FLOW CHART OF PROTECTIVE SERVICE DELIVERY



Report/Referrral

Investigation by Tribal Social Services and Tribal Police immediately upon receipt of referral and based on Priority Level of referral

Case will be reported to BIA or FBI if it's a Felony violation

Unsubstantiated

Substantiated

Initial WMAT CPT Review within 1 to 7 days

Agreement with Investigative Decision; Unsubstantiated

CPT finding of Substantiated Abuse/Neglect/ Child Sexual Abuse

Medical Exam/Treatment/ Therapy for victim and family

Tribal Criminal Court Process

Federal Prosecution

Follow-up WMAT CPT Review (every 90 days or as recommended in initial review)

MINUTE

ILD PROTECTION TEAM DATE:________________

e meeting was called to order by:____ at ______________

mbers PRESENT were:

mbers ABSENT were:

Topic	Discussion/Conclusions	Recommendation/Action	Followup/Tracking

Investigative Report\CPT Case Summary

Referral Date: ______________ Type: Physical Abuse ☐

Neglect ☐

Date Initiated: ______________ Sexual Abuse ☐

Other ☐

Family Name: ______________

Address: ______________

City, State: ______________ Zip: ______________

Employment: ______________ Ph. ______________ (father)

Employment: ______________ Ph. ______________ (mother)

Names of children:	DOB	Age	School attended

Collaterals Contacted	Date	Relationship

Brief Statement of Referring Problem

Alledged Perpetrator Identification

Name: Address:

Investigative Narrative

Investigative Narrative (cont)

Conclusion:

Substantiated ☐ Unsubstantiated ☐ Suspected ☐

Referred for Treatment: Yes ☐ No ☐

yes, where: ______________________________ Date: __________
______________________________ Date: __________
______________________________ Date: __________

ase Status:
Opened to treatment ☐ Closed ☐

Legal Status:
Petition filed? Yes ☐ No ☐ Date: __________

Hearing Date: __________

Result: Continued Custody ☐ Returned home ☐

Placement Information:

Placed at ______________________________ Date: __________
(name)

____
(address)

Caseworker Signature: ______________________________ Date: __________

Supervisor Signature: ______________________________ Date: __________

370

IHS 199-1 (REV. 01/89)

PATIENT REFERRAL NOTICE

INSTRUCTIONS *(This form may be used by Medical, Dental, and Paramedical personnel to refer DIH Beneficiaries for medical, dental or related services.)*

1. T[illegible]*me, title, and address of person or organization or institution to whom referral is made.)*

2. NAME OF PATIENT *(Last Name, First Name, Middle Name)*	3. SEX	4. BIRTH DATE	5. REGISTRATION NO.

6. ADDRESS	7. TRIBE	8. RESERVATION

9. ADDITIONAL IDENTIFICATION

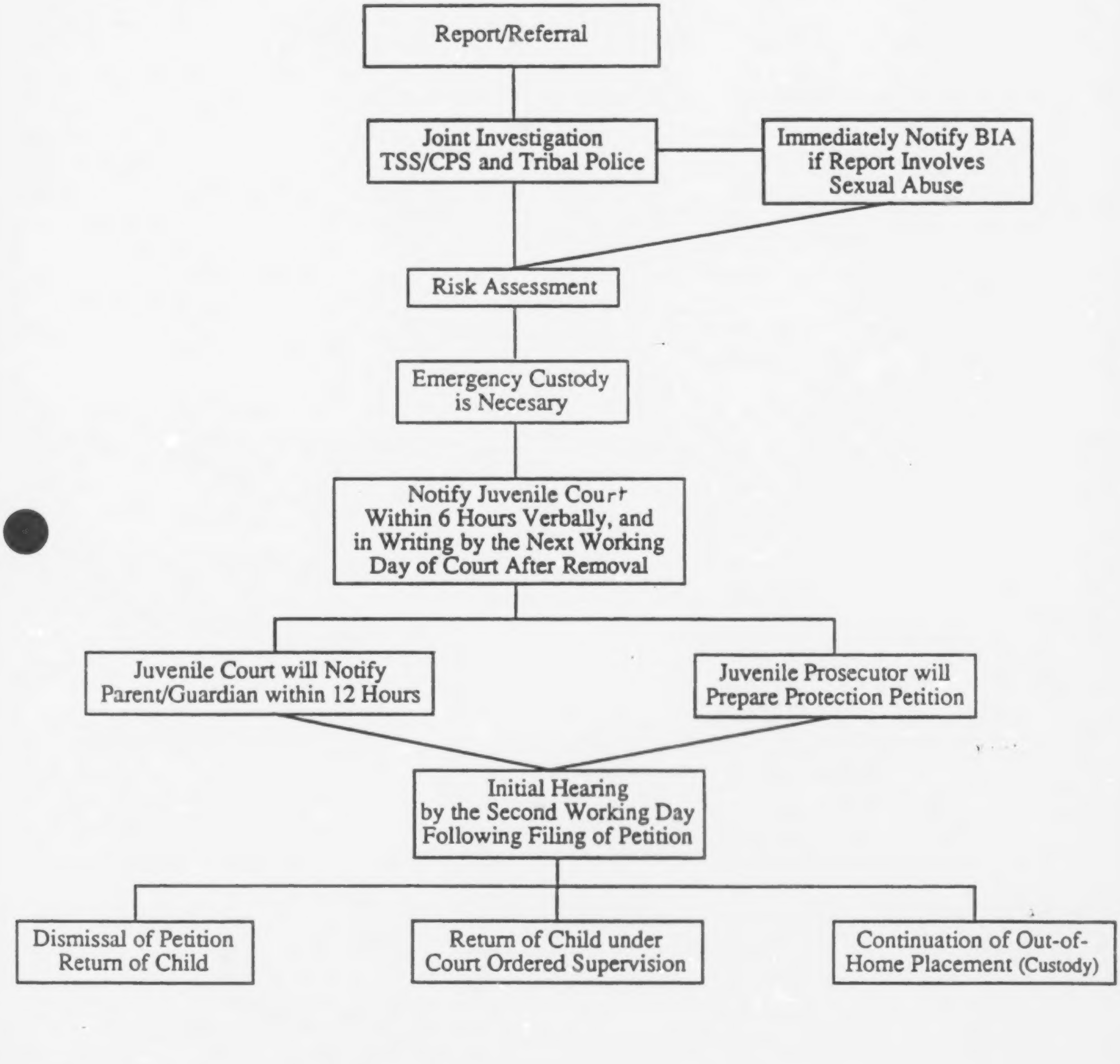
10. REASON FOR REFERRAL *(Type of service requested)*

11. SIGNIFICANT MEDICAL OR DENTAL FACTORS *(Including diagnosis, prognosis, treatment, etc.)*

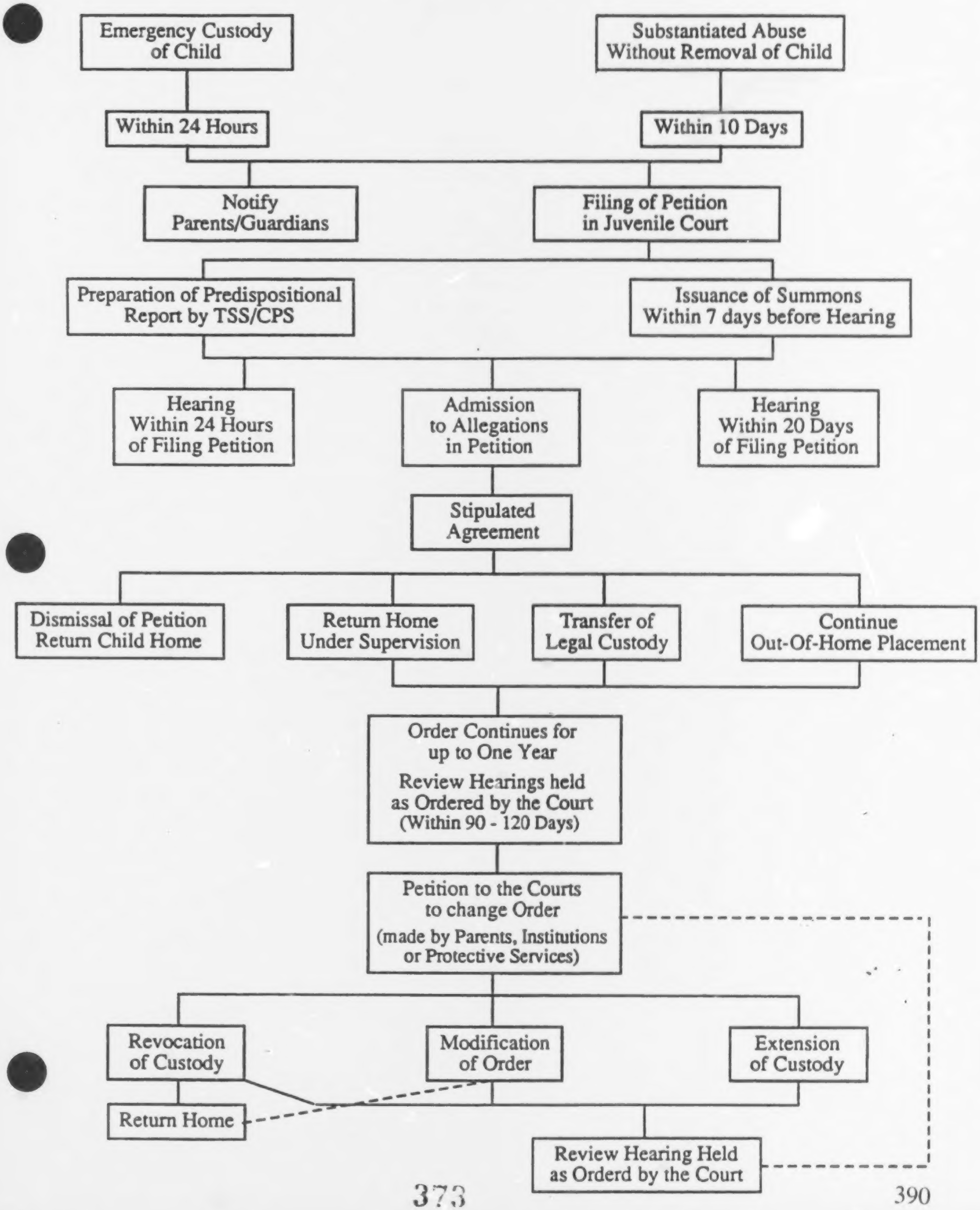
12. REPORT BY PARAMEDICAL PERSONNEL

13. FR[illegible]*(Name, title, and address of person making referral)*	14. DATE

EMERGENCY CUSTODY PROCESS

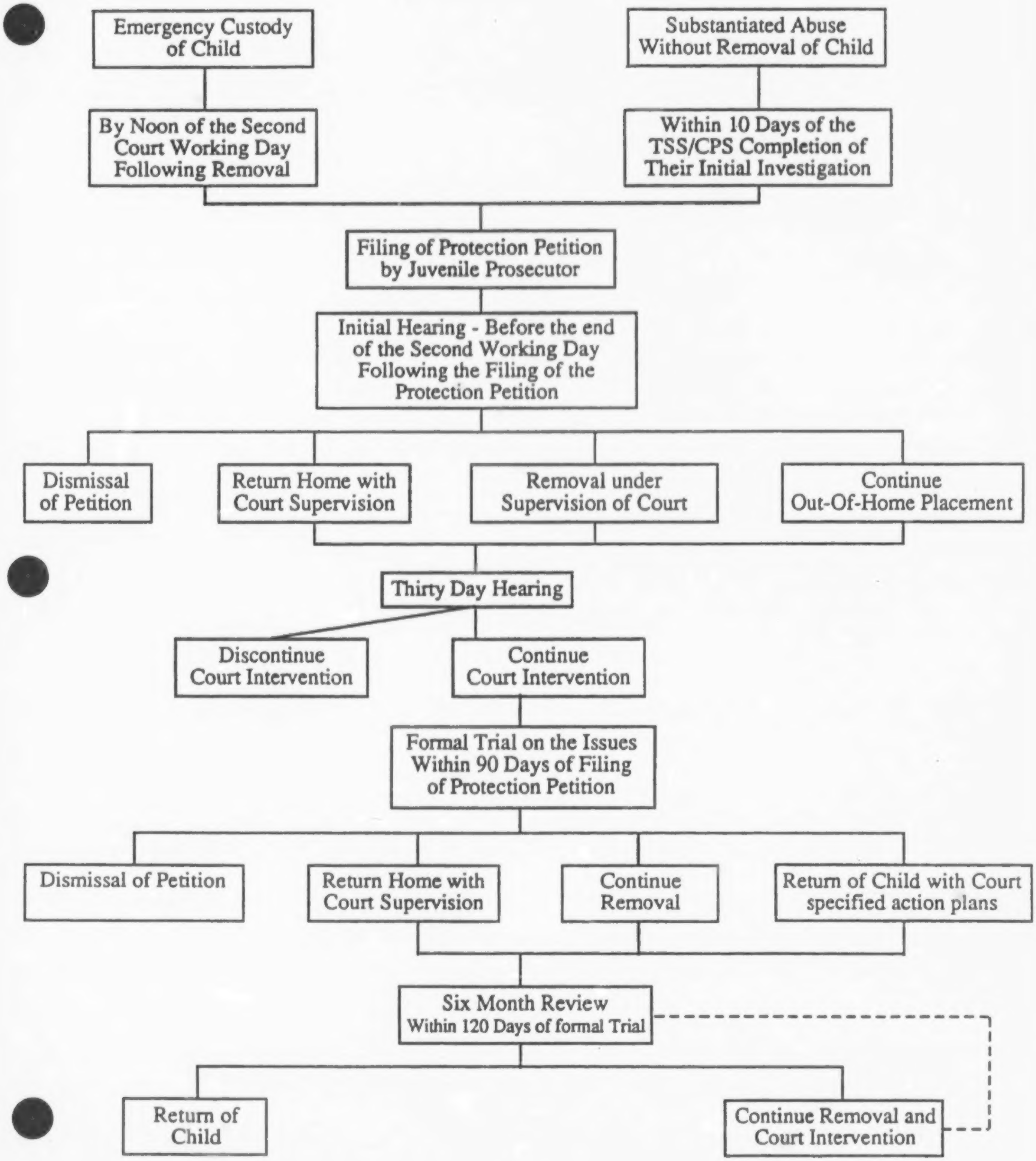

Report/Referral
Joint Investigation TSS/CPS and Tribal Police
Immediately Notify BIA if Report Involves Sexual Abuse
Risk Assessment
Emergency Custody is Necesary
Notify Juvenile Court Within 6 Hours Verbally, and in Writing by the Next Working Day of Court After Removal
Juvenile Court will Notify Parent/Guardian within 12 Hours
Juvenile Prosecutor will Prepare Protection Petition
Initial Hearing by the Second Working Day Following Filing of Petition
Dismissal of Petition Return of Child
Return of Child under Court Ordered Supervision
Continuation of Out-of-Home Placement (Custody)

JUVENILE COURT PROCESS
(Under Existing Children's Code)

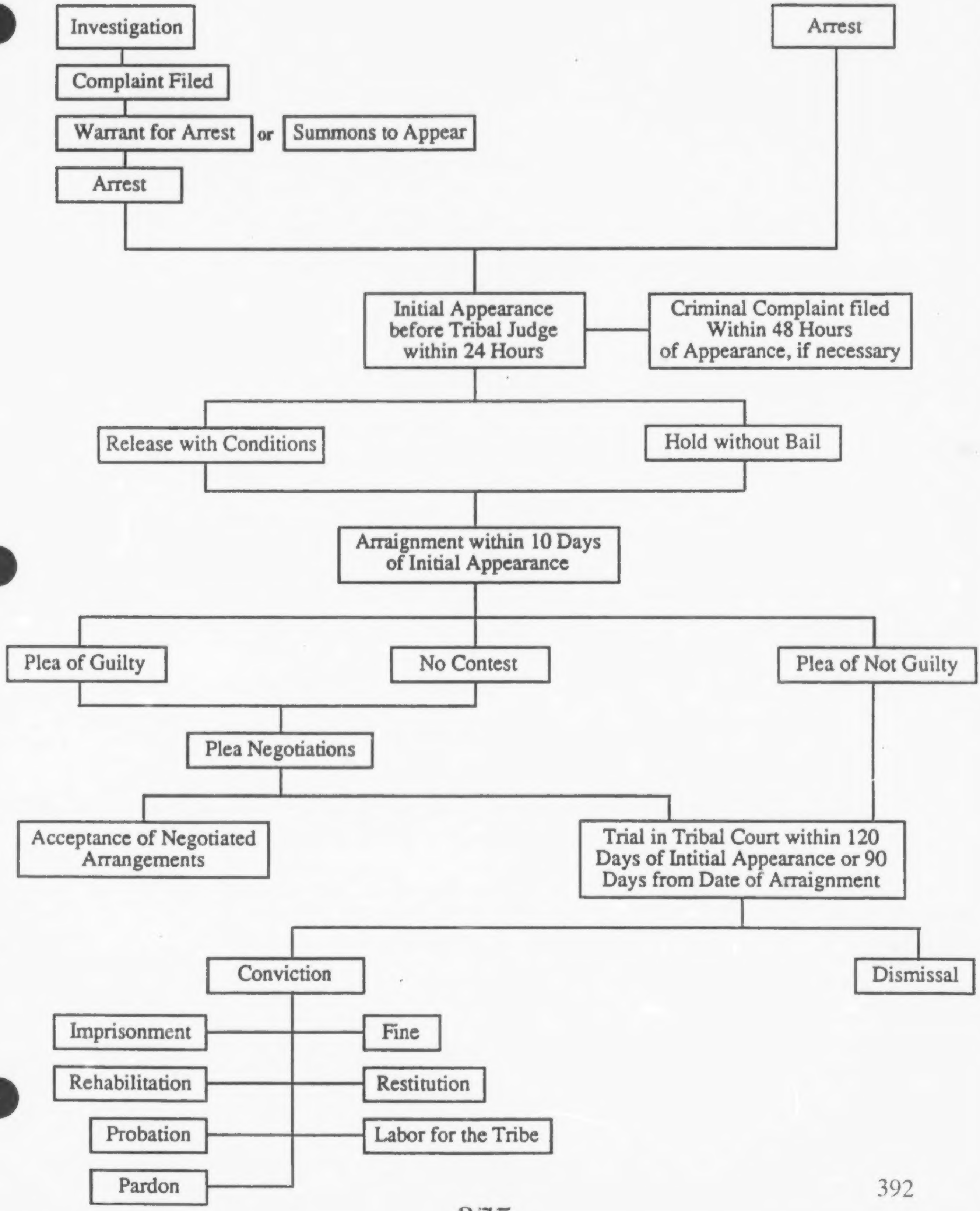

Emergency Custody of Child
Substantiated Abuse Without Removal of Child
Within 24 Hours
Within 10 Days
Notify Parents/Guardians
Filing of Petition in Juvenile Court
Preparation of Predispositional Report by TSS/CPS
Issuance of Summons Within 7 days before Hearing
Hearing Within 24 Hours of Filing Petition
Admission to Allegations in Petition
Hearing Within 20 Days of Filing Petition
Stipulated Agreement
Dismissal of Petition Return Child Home
Return Home Under Supervision
Transfer of Legal Custody
Continue Out-Of-Home Placement
Order Continues for up to One Year
Review Hearings held as Ordered by the Court (Within 90 - 120 Days)
Petition to the Courts to change Order
(made by Parents, Institutions or Protective Services)
Revocation of Custody
Modification of Order
Extension of Custody
Return Home
Review Hearing Held as Orderd by the Court

JUVENILE COURT PROCESS

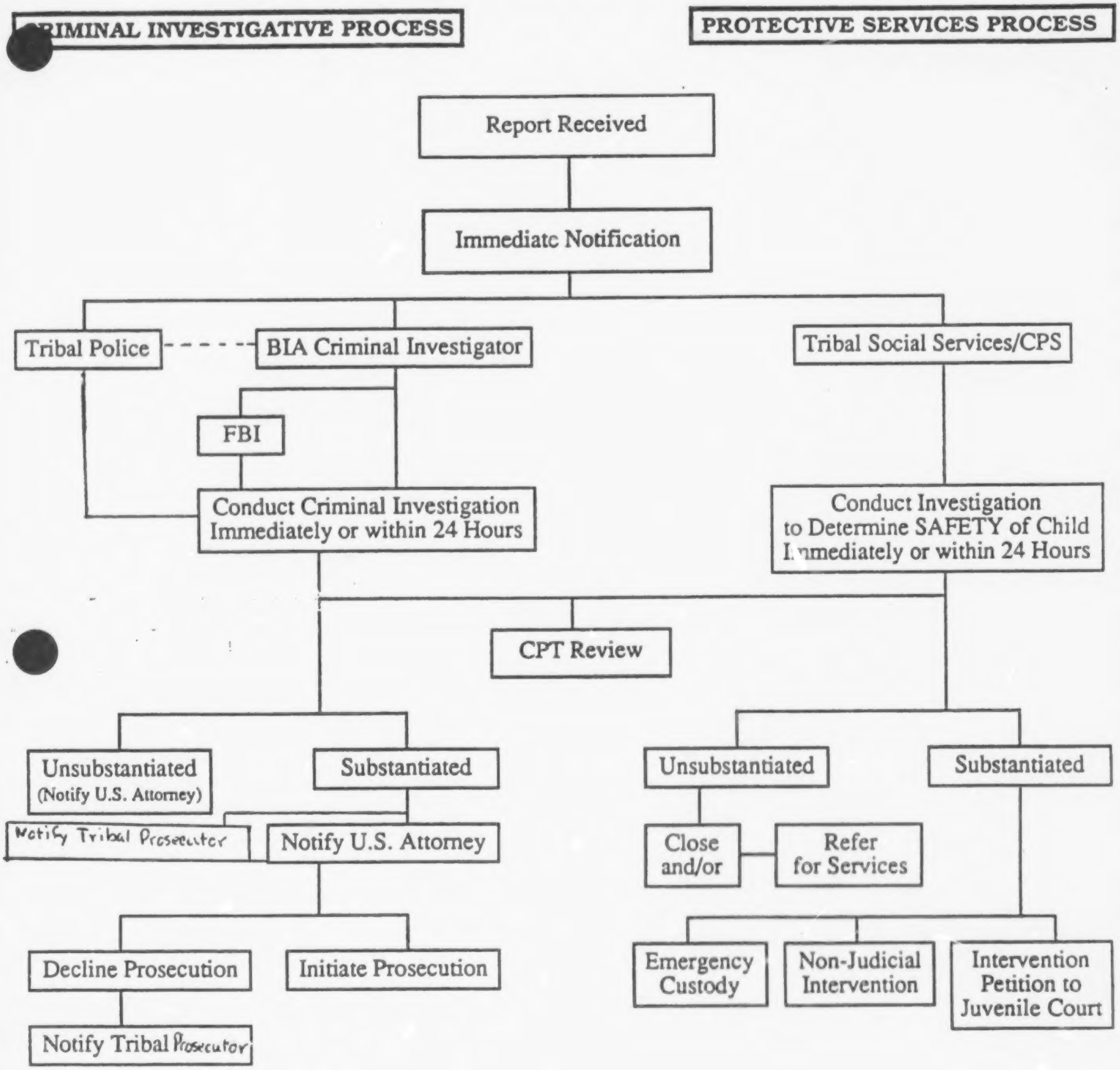
(Proposed Juvenile Code)

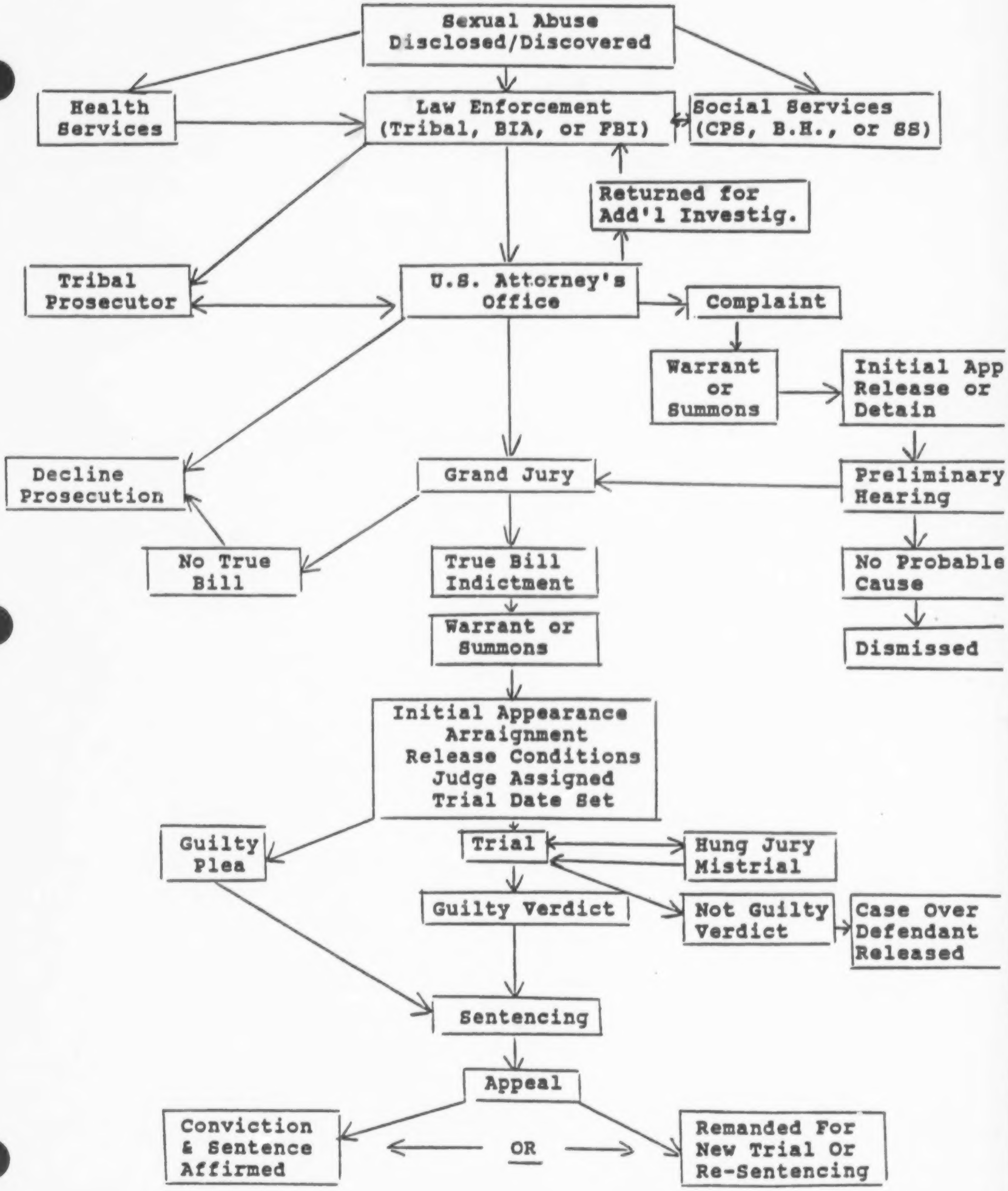

Emergency Custody of Child
Substantiated Abuse Without Removal of Child
By Noon of the Second Court Working Day Following Removal
Within 10 Days of the TSS/CPS Completion of Their Initial Investigation
Filing of Protection Petition by Juvenile Prosecutor
Initial Hearing - Before the end of the Second Working Day Following the Filing of the Protection Petition
Dismissal of Petition
Return Home with Court Supervision
Removal under Supervision of Court
Continue Out-Of-Home Placement
Thirty Day Hearing
Discontinue Court Intervention
Continue Court Intervention
Formal Trial on the Issues Within 90 Days of Filing of Protection Petition
Dismissal of Petition
Return Home with Court Supervision
Continue Removal
Return of Child with Court specified action plans
Six Month Review Within 120 Days of formal Trial
Return of Child
Continue Removal and Court Intervention

WHITE MOUNTAIN APACHE TRIBE
CRIMINAL COURT PROCESS


Investigation
Complaint Filed
Warrant for Arrest
or
Summons to Appear
Arrest
Arrest
Initial Appearance before Tribal Judge within 24 Hours
Criminal Complaint filed Within 48 Hours of Appearance, if necessary
Release with Conditions
Hold without Bail
Arraignment within 10 Days of Initial Appearance
Plea of Guilty
No Contest
Plea of Not Guilty
Plea Negotiations
Acceptance of Negotiated Arrangements
Trial in Tribal Court within 120 Days of Intitial Appearance or 90 Days from Date of Arraignment
Conviction
Dismissal
Imprisonment
Fine
Rehabilitation
Restitution
Probation
Labor for the Tribe
Pardon

WHITE MOUNTAIN APACHE TRIBE PROCESS
WHEN SEXUAL ABUSE IS ALLEGED


RIMINAL INVESTIGATIVE PROCESS
PROTECTIVE SERVICES PROCESS
Report Received
Immediate Notification
Tribal Police
BIA Criminal Investigator
Tribal Social Services/CPS
FBI
Conduct Criminal Investigation Immediately or within 24 Hours
Conduct Investigation to Determine SAFETY of Child Immediately or within 24 Hours
CPT Review
Unsubstantiated (Notify U.S. Attorney)
Substantiated
Notify Tribal Prosecutor
Notify U.S. Attorney
Decline Prosecution
Initiate Prosecution
Notify Tribal Prosecutor
Unsubstantiated
Substantiated
Close and/or
Refer for Services
Emergency Custody
Non-Judicial Intervention
Intervention Petition to Juvenile Court


Sexual Abuse Disclosed/Discovered
Health Services
Law Enforcement (Tribal, BIA, or FBI)
Social Services (CPS, B.H., or SS)
Returned for Add'l Investig.
Tribal Prosecutor
U.S. Attorney's Office
Complaint
Warrant or Summons
Initial App
Release or Detain
Decline Prosecution
Grand Jury
Preliminary Hearing
No True Bill
True Bill Indictment
No Probable Cause
Warrant or Summons
Dismissed
Initial Appearance
Arraignment
Release Conditions
Judge Assigned
Trial Date Set
Guilty Plea
Trial
Hung Jury Mistrial
Guilty Verdict
Not Guilty Verdict
Case Over Defendant Released
Sentencing
Appeal
Conviction & Sentence Affirmed
OR
Remanded For New Trial Or Re-Sentencing

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UNIT VI

The Comprehensive Child Welfare System

Prepared by:
Michael D. Hughes
Consultation on American Indian Policy

TABLE OF CONTENTS

GENERAL INTRODUCTION

Course Outline 396

Training Outline 398

I. BASIC ORIENTATION TO TRIBAL GOVERNMENT

Introduction 401
Tribal Governments 404
Tribal Human Services Program 406

II. CASEWORK SUPERVISION

Overview of Casework Practice 411
Case Reviews and Casework Evaluation 419
Casework Training 421
Child Custody Proceedings 423
Placement of Children 423
Administration Orientation for Child Welfare Staff 424

III. ADMINISTRATIVE SUPERVISION

Program Planning 425
Resource Development and Program Funding 433
Program Management 440
Service Coordination 442

CHILD PROTECTIVE SERVICES TRAINING COURSE OUTLINE

UNIT VI COMMUNITY PRACTICE

COURSE LENGTH: 6 HOURS

DESCRIPTION:
This unit will examine and define what community practice entails on the White Mountain Apache Tribal Community. Two models of community practice, the locality development model and social planning model will be discussed and examples given of their application in the White Mountain Apache community. Skills that focus on planning, administration and coordination will be highlighted.

COURSE OBJECTIVES:

1. Participants will define and describe the various communities within WMAT.
2. Participants will identify the White Mountain Apache Tribe's administrative units responsible for social planning in the area of child protective services.
3. Participants will identify committee structures at White Mountain Apache responsible for services to children.
4. Participants will list tasks and responsibilities regarding effective delegation of authority.
5. Given a scenario of an administrative unit with problems in coordination, participants will identify the causes and explain how these lead to inefficient or ineffective service delivery.
6. Given a scenario describing a problem in coordination within an agency, participants will describe an effective method by which coordination may be established.
7. Given a scenario requiring a report, participants will cite 10 essential steps that must be taken in preparing the report and set up an outline that will be used to write the report.

KEY CONCEPTS:
Community, coordination, locality development, primary prevention, secondary prevention, tertiary prevention, leadership, GANTT Chart, social planning, organizational chart, memorandum, inter/intra departmental agreements, implementation, monitoring, reporting, evaluation

TOPICS OF DISCUSSION:

1. Participants, in small groups, will identify, discuss and give examples of locality development on WMA community regarding CPS.
2. Participants, in small groups, will write a memorandum that addresses an inter-agency conflict to WMA CPS system.
3. Participants in small groups will conduct a "rumor mill" exercise in order to understand the problems that can develop through ineffective communications.
4. Participants will discuss what is leadership and the characteristics in leadership needed to effect changes.
5. Participants will write down the prerequisites for effective delegation and its barriers. They will know what can be delegated and what cannot be delegated.
6. Through small discussion, participants will learn how to evaluate delegated responsibility.
7. Participants will discuss the major responsibilities related to coordination of agency personnel.

OUTLINE OF PRESENTATION
COMMUNITY PRACTICE
October 22, 1992

Trainers: Michael D. Hughes and Nadine Tafoya

The training will follow the discussion presented in the chapter from the supervisor's handbook entitled "The Comprehensive Child Welfare System."

9:00 a.m. INTRODUCTION

- Introduction of the Trainers
- Introduction of the Participants
- Overview of the Community Practice Training

9:30 a.m. BASIC DISCUSSION OF TRIBAL GOVERNMENT

A. Basic concepts of tribal government

- to exercise the right of the Indian self-government
- to protect the tribal homeland and tribal natural resources
- to exercise self-determination in community development and community services

B. The alternatives to tribal government are:

- Public Law 280: state jurisdiction over Indian lands
- Allotment of Indian lands, with resulting losses
- State taxation and regulation on Indian lands
- The eventual termination of Indian tribes and Indian communities

C. A basic goal: strengthen tribal governments

- improve the democratic representation of Indian citizens
- rational community planning based upon documentation of needs combined with an understanding of available resources
- improving program quality (staff training)

10:30 a.m. BREAK

10:45 a.m. THE ROLES OF TRIBAL GOVERNMENT IN CHILD WELFARE

A. Historical background - 1800's to 1975
- boarding school policies
- termination of Federal responsibilities
- the destruction of Indian families

B. Tribal Self-Determination 1975 - now
- contracting of the social services program by the White Mountain Apache Tribe
- changes in service priorities

C. Obtain the resources necessary to deliver basic human services
- family and individual casework services
- child welfare services
- substance abuse services
- employment training
- services for the elderly

D. Intergovernmental Relations
- child custody proceedings

E. Organizations within Tribal Government

F. Organizations that work with Tribal Government

Exercise Question:
What are the two most important things I can do in my job to strengthen tribal services for Apache children?

12:00 noon LUNCH

1:00 p.m. CASEWORK SUPERVISION
A. Overview of casework practice

B. Case reviews and casework evaluation

C. Casework consultation

D. Making referrals

Exercise Question
What are the two most important things I can do in my job to improve coordination with other programs?

3:00 p.m. FOLLOW-UP SUPPORT FOR THE WHITE MOUNTAIN APACHE TRIBE

A. Community Resource Inventory

B. Resources for Assistance
- Bureau of Indian Affairs
- Arizona Department of Economic Security
- Indian Child Protective Services Academy
- Other resources

C. Assistance with Coordination: Communications problem-solving

Exercise Question:
What kinds of follow-up assistance will I need to help me provide child abuse prevention and treatment services for Apache families?

THE COMPREHENSIVE CHILD WELFARE SYSTEM

GENERAL INTRODUCTION

This manual is intended to be used by several different audiences. First, this manual is intended to be used by supervisors of child welfare workers who work with Indian families and communities. Second, this manual is intended to be used to train supervisors of Indian child welfare workers. Finally, this manual is intended for use in teaching child welfare casework in school of social work.

The child welfare needs of Indian families are not much different from the needs of children in the general population: support and assistance for the family in times of emotional and economic stress. However, the context for the delivery of child welfare services is different. Therefore, there are several basic areas of knowledge that a supervisor must be aware of in working with Indian communities: tribal governments, tribal culture and community resources.

Tribal governments are distinct political entities that exercise civil and criminal jurisdiction on Indian lands. Tribes maintain direct political relationships with the federal government and are not political subdivisions of state governments. The relationship between the federal and tribal governments is recognized by the United States Constitution in treaties between the United States and tribes, in federal and tribal laws and in United States Supreme Court decisions. Tribal governments retain jurisdiction over Indian family and child welfare civil matters. The primary jurisdiction of tribal governments in child welfare matters was reaffirmed by the Indian Child Welfare Act of 1978.[1] Tribal governments operate human elements of child welfare services on Indian lands. In addition to delivering services directly, tribes coordinate services with federal, state, county and private child welfare agencies. One of the tasks of child welfare supervision is to build relationships among service providers and to coordinate scarce resources to serve the needs of Indian families. Working relationships between tribal governments and federal, state and county governments when approached in terms of intergovernmental relationships. The existence of tribal governments as a means of self-government has been essential to the continued survival of distinct tribal communities and cultures.[2]

The supervisor must make an effort to understand the particular culture of the tribal community within which he or she is working. Each tribe has its own distinct culture. There is no such thing as "the Indian culture," or "the

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[1] Indian Child Welfare Act, 1978 (Public Law 95-608).

[2] Indian Self-determination and Education Assistance Act of 1975 (Public Law 93-638; 25 USC 450).

Indian language," Hollywood stereotypes notwithstanding. The Navajo people are as different from their neighbors, the Hopi, as Germans are from the French in language, beliefs, kinship patterns, and social organization. Each tribe has specific values regarding families and children, and an understanding of those values is essential for effective Indian child welfare casework.

In addition one must resist any temptation to stereotype particular Indian communities as "traditional" or "assimilated." Indian communities have been subjected to tremendous pressures for cultural, economic change during the past five hundred years. These pressures have included competition for land and natural resources, destruction of natural resources and warfare. The pressures on Indian families have included forced attendance of children in federal off-reservation boarding schools which were designed to remove Indian children from their families and their communities in an attempt to assimilate Indian children into non-Indian society between the years 1890 and 1970. During the 1950's the federal government cooperated with child welfare agencies to remove Indian children from their homes and to meet the non-Indian society's demand for adoptive children. This policy was adopted by some religious organizations during the 1950's and 1960's. In spite of the pressure for change, Indian communities have survived; indeed they have maintained distinct ethnic identities and tribal forms of social organization and self-government. Indian communities have adopted elements of non-Indian societies and have also influenced non-Indian society. Even within individual tribes, there is often a wide variety of views and practices regarding religion, employment and family life. Therefore, in one's efforts to understand the values of the community with which one is working, it is important to keep in mind the history of the community and the dynamic nature of interaction between tribal and non-Indian communities.

Finally, it is important to understand the resources available that affect families and children in the community and that comprise a child welfare system. There are several different environments for Indian child welfare casework. Community environments include Indian reservation lands, which may be rural and isolated. Some examples would include the Hopi tribe in Arizona, the Spokane Indian Reservation in Washington, and the Mississippi Band of Choctaws in Mississippi. Other Indian reservation communities may be located near urban areas and may have relatively extensive development. Examples of these include: The Salt River Pima-Maricopa Indian Community located adjacent to Scottsdale, Arizona and the Reno-Sparks Indian Tribe whose lands are located in Downtown Reno, Nevada. In addition to reservation communities, Indian communities may be located in urban areas such as Phoenix, Arizona and Lincoln, Nebraska. In some of the delivery centers and centers for inter tribal social events. Also in urban areas are urban Indian health centers funded by the Indian Health Service. The institutional settings for Indian child welfare casework may include:

- Tribal government human services programs
- Bureau of Indian Affairs social services program
- Urban Indian center social services programs
- Tribal or state child protective services programs
- County-administered human services programs
- Private child welfare agencies
- School social worker
- Medical social worker

We define Indian child welfare services in a broad and comprehensive manner and we recognize that casework, however essential, is only one element in a comprehensive child welfare system. The other elements of the child welfare system include:

- The child's immediate and extended family, friends and neighbors
- Head Start programs
- Women, Infant's and Children's (WIC) nutrition programs
- Indian health clinics, especially prenatal clinics, well baby clinics and pediatric clinics
- Elementary and secondary schools, including reservation public schools
- Bureau of Indian Affairs schools, tribal contract schools and Christian mission schools
- Tribal law enforcement, tribal courts and juvenile probation services

It is the hope of the authors that supervisors of Indian child welfare workers will be able to use this publication as a practical reference manual for working with tribal governments and Indian communities in planning and managing child welfare programs and in supervising caseworkers.

I. ORIENTATION TO TRIBAL GOVERNMENT

Overview of tribal governments; roles in tribal government in child welfare services; development of child welfare services among tribal governments in Arizona.

A. INTRODUCTION

There are 310 federally recognized Indian tribal governments located in the 30 of the lower 48 states. There are also 197 Native villages in Alaska. American Indians and Alaska Natives occupy 42 million acres of tribal land and 10 million acres of land held in individual trust accounts.

The 1980 census reported a total American Indian population of 1.5 million. Roughly half of the number were living on Indian lands in 1980. The American Indian population is one of the fastest growing population groups in America. The Indian Health Service estimates that the Indian population is growing at a rate of 2.7% per year.[3]

According to the Bureau of Indian Affairs and based on preliminary 1990 census figures, there are 949,000 Indian people living on or near Indian reservations in 1989.[4] Of this total, approximately 314,000 (33%) were under age 16. In demographic terms, the Indian reservation population is "young." This is in part due to the high birth rate on Indian lands. However, it also is due to the need of many young Indian adults to move away from their reservation to urban areas in order to find work. Often they leave their children behind in the care of the other parent or relatives.

Indian reservation populations range in size from the tiny rancherias in California, many of which have only a few residents, to the Navajo Nation, which has lands located in the states of Arizona, New Mexico, Utah and a population of over 200,000 residents.

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[3] Indian Health Service, *Trends in Indian Health*, 1989.

[4] Bureau of Indian Affairs, *Local Estimates of Resident Indian Population and Labor Force Estimates*, January, 1989.

B. TRIBAL GOVERNMENTS

Tribal governments are distinct entities that maintain direct political relationships with the Federal government. They are not political subdivisions of state governments. The relationship between the federal government and tribal governments is recognized in the United States Constitution and in federal and tribal laws.[5]

Each tribal government is governed generally by an elected body, usually a tribal council. In most tribes, the top elected official -- chairman, governor or president -- exercises executive powers. Most tribes have established local judiciary systems. For tribes that have not established tribal courts, the Bureau of Indian Affairs operates courts established through the "CFR" (Code of Federal Regulations).

Most tribes maintain a wide variety of governmental functions on Indian lands, including:

- General governmental and administrative operations: tribal council, law enforcement, judicial system, planning, financial management, property management, procurement and personnel.
- Community and economic development: housing rehabilitation, building maintenance, utilities systems, economic development, planning and enterprises.
- Human services: social services, child welfare services, elderly services programs, health clinics and community nursing programs, commodity food distribution centers, nutrition programs (WIC: Women, Infants and Children), employment training and alcohol and drug treatment.
- Natural resource management: land use planning and management of specific resources, e.g. forestry, agriculture, range lands, minerals, game and fish, water.
- Education: Head Start, educational counseling, tutoring, summer youth programs, adult education and higher education scholarships. In addition, some tribes operate or support the operation of elementary, secondary schools and community colleges.

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[5] Felix Cohen, *Handbook of Federal Indian Law*. D'Arcy McNickle, *They Came Here First* and *Native American Tribalism*. For history of governments in Arizona, see Edward Spicer, *Cycle of Conquest*.

This listing of tribal functions illustrates the diversity and complexity of tribal government responsibilities. The specific functions of an individual tribal government depends upon the size of the tribe's population, its land base and resources, its sources of income and the needs and interests of its citizens.

C. TRIBAL HUMAN SERVICES PROGRAMS

In the last twenty years, between 1970 and 1990 tribal governments made remarkable progress in operation of their own human service programs. Tribal human service systems developed rapidly after the Indian Self-Determination Act of 1975. Before passage of the Self-Determination Act, most human services on Indian lands were provided by Federal employees working either for the Bureau of Indian Affairs (BIA) or the Indian Health Service (IHS).

1. Bureau of Indian Affairs Funding for Tribal Social Services

The BIA is part of the United State Department of the Interior. The Department of the Interior was established in 1849. In that year, Federal executive responsibilities were transferred from the War Department to the Department of the Interior. Human services provided by the BIA initially were authorized by the Snyder Act of 1934 and, along with the provision under the Indian Child Welfare Act of 1978, comprise the principle sources of funding.

In Fiscal Year 1990, the BIA employed 12,000 staff and had a total budget of approximately $1.3 billion. Of the $1.3 billion, approximately $115 million was spent for social services.

Of the $115 million for social services, the BIA allocated approximately $24 million for social services programs operated on Indian lands by BIA Agencies (the most local component of the BIA bureaucracy) and by tribal governments under Self-Determination Act contracts. Over half of the BIA social services programs on Indian lands are operated by tribal governments under authority of the Indian Self-Determination through contracts administered by the BIA.

The BIA allocated $2.2 million for social services administrators allocated by the Central Office in Washington, DC, and in twelve Area Offices located around the country.

Welfare Assistance Grants accounted for $89 million including:

- General Assistance payments to individuals and families ($51 million)
- Adult custodial care ($11 million)
- Child welfare assistance payments including foster home care and residential care for handicapped children ($16 million)
- Indian Child Welfare Act grants ($8.9 million)
- Burial assistance and emergency assistance ($1 million)
- Tribal Work Experience Programs ($1 million)

2. Indian Health Service Funding for Tribal Health Programs

The IHS is a component of the Public Health Service in the Department of Health Services. The IBA was responsible for Indian health care until 1954, when an Act of Congress, Public Law 959, transferred the responsibility to Public Health Service.[6]

The IHS administers hospitals, clinics and community health programs on Indian lands in 31 states. In addition to providing direct services in IHS facilities, the IHS purchases services from private providers under the Contract Health Services (CHS) program. During 1990, the IHS had an annual budget of close to $1.2 billion for health services and $65 million for health facilities construction; it employees 12,000 people.

In 1990 the IHS operated 43 hospitals and 131 outpatient facilities. Tribal organizations operated 7 hospitals and 313 outpatient facilities under authorization of the Self-Determination Act through contracts with the IHS. In addition, tribes provided Community Health Representatives through programs which employed Indian people to provide community health outreach services and to bridge the communications gap between Indian people and health professionals.

3. Indian Self-Determination Act

The Indian Self-Determination Act (Public Law 93-638) was approved on January 4, 1975. The description of the Act was:

To provide maximum Indian participation in the government and education of the Indian people; to provide for the full participation of Indian tribes in programs and services conducted by the Federal government for Indians and to encourage the development of human resources of the Indian people; to establish a program of assistance to upgrade Indian education; to support the right of Indian citizens to control their own educational activities; and for other purposes.[7]

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[6] Act of August 5, 1954 (68 stat. 674; 42 USC 2000 et. seq.)

The Act directs the Secretaries of the Interior and Health and Human Services to enter into contracts, at the request of tribal governments, to operate programs that otherwise would be operated by the BIA or IHS.

Prior to the passage of the Self-Determination Act, tribal governments had very few resources with which to provide services to tribal members. A very small number of these tribes received annual royalties from the sale of oil, gas, or timber or lease of tribal lands for rights of way, agricultural or grazing. Some tribes used their royalty revenues to establish scholarship programs to encourage young tribal members to attend college.

In the 1960's, tribes received funding under the Office of Economic Opportunity Act for Community Action Programs, Neighborhood Youth Corps and Head Start Programs. The Community Action and Head Start Programs enabled tribal governments to gain valuable experience in program planning, service delivery and community development.

4. The Development of Human Services Programs Among Tribal Governments in Arizona.

In Arizona, prior to 1975, only one tribe operated its own social services program. The Salt River Pima-Maricopa Indian Community had entered into a demonstration program with the BIA under the authority of the Buy Indian Act.[8] Soon after enactment of the Self-Determination Act, other tribes expressed interest in contracting social services programs, but there were few sources available for technical assistance.

In the late 1970's, the Inter-Tribal Council of Arizona (ITCA) entered into a demonstration program (under Section 1115 of the Social Security Act) with the Arizona Human Development Services. The purpose of the project was to demonstrate that given access to Social Security Act Title XX dollars, tribal governments would deliver quality human services on Indian lands. The role of the State of Arizona was to pass through a portion of the state's allocation of Title XX dollars to the bribes and to administer state/tribal intergovernmental agreements. The role of ITCA was to provide technical assistance to tribes in planning and operating human service program, and to assist state officials to work cooperatively with tribal governments.[9]

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[7] Indian Self-determination and Education Assistance Act of 1975 (Public Law 93-638; 25 USC 450).

[8] Interview with Robert R. Lewis, Director of Health and Human Services, Salt River Pima-Maricopa Indian Community, 1990.

An important additional benefit was that ITCA was able to provide technical assistance to tribes that were interested in contracting the BIA to operate social services programs. Between 1980 and 1990, the number of tribes contracting with the BIA to operate social services programs in Arizona increased from one to nineteen. The technical assistance and support that ITCA provided to the tribes was a major factor in this increase.

ITCA assisted all twenty tribes to obtain Title XX (Social Services Block Grant) funds.[10] Tribes in Arizona have over ten years of experience successfully operating Social Service Block Grant programs. Every tribe in Arizona uses its Social Service Block Grant to enhance either child welfare services or services for the elderly.

The ITCA and the State of Arizona developed an allocation formula that allowed all tribes to receive a base amount of funding plus an amount based upon population. This "base plus population" method ensured that all tribes, including tribes with small populations had sufficient resources to operate a social services program. The State set aside the allocation for the tribes and allowed time for careful planning. Since each tribe had a specific allotment, there was no competition. Therefore, tribes were able to conduct planning based upon real needs and were able to conduct planning based upon real needs and were able to depends upon a certain amount of money.

Technical assistance in planning and consultation in casework for the Title XX dollars were provided by the ITCA. In addition, the ITCA Staff as part of its Title XX technical assistance effort, assisted tribes in conduction of human services inventories (described later in this chapter). Therefore, the technical assistance effort was also a capacity-building effort for tribal governments.

The Self-Determination Act has been important to the development of tribal human services programs. As tribes have taken over social services programs, they have changed BIA service priorities. For instance, the BIA Manual places a high priority for resources based on the number of General Assistance cases, the number of children in out-of-home care and the number of elderly and disabled people placed in custodial care institutions. The BIA Manual places a low priority based on "service only," that is, casework that is needed to enable children to remain with their families or to assist an elderly person to continue living at home.

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[9] Inter Tribal Council of Arizona, *Final Report of the 1115 Project*, 1984.

[10] In 1981, Title XX of the Social Security Act was turned into a Social Services Block Grant by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35).

In contrast, as tribes have taken over social service programs, they have emphasized support services, rather than numbers of cases, to keep Indian families intact. Tribal support services for Indian children and families are funded by a variety of sources:

- social services casework and child welfare assistance payments (funded by BIA)
- Indian Child Welfare Act grants (funded by BIA)
- BIA funded elementary and secondary schools
- Johnson-O'Malley supplementary educational services (funded by BIA)
- Head Start (funded by the Department of Health and Human Services)
- Women's, Infant's and Children's nutrition program (funded by the United States Department of Agriculture)
- Summer Youth Employment Program (funded by the Department of Labor)

II. CASEWORK SUPERVISION

A. OVERVIEW OF CASEWORK PRACTICE

It is rare to have a tribal human services program that is staffed by experienced social workers who have master's degrees in social work. Usually, the staff consists of Indian paraprofessionals who may have some schooling at the college level and some casework experience. The task of the Indian child welfare supervisor is to provide casework supervision and training for the staff.[11]

There are several reasons for the lack of trained social workers on Indian lands. The first is that there are not enough Indian people who have graduated from schools of social work with bachelors or masters degrees. Serious efforts have been made by Arizona State University and other schools to recruit and retain Indian students, including alternative outreach education.[12] However, much remains to be done.

Second, the funding for Indian social services and child welfare programs is seriously inadequate.

Third, social institutions take time to develop, mature and "settle down." There has been rapid change in the control of social services on Indian lands during its twenty year passage from the Federal Bureau of Indian Affairs control to the tribal government. Futhermore, there has been rapid growth in the resources that have been developed and in the types of services provided by tribal governments on Indian lands. For a comprehensive discussion on these changes, please refer to the section "Orientation to Tribal Government," in this chapter.

The probability of becoming greater than a supervisor will inherit a well-trained and experienced staff. Even so, the following outline is necessary and helpful for purposes of a training manual such as this. The task of the supervisor is to prepare thoroughly child welfare workers to be proficient in the fundamentals of family and child welfare casework:

- It is important to conduct a careful analysis of the problem in order to learn about the presenting problem, the source of the referral and the child's home.

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[11] The author wants to acknowledge the substantial contribution of Ms. Ruth Houghton, MSW, to the section on casework supervision. Ms. Houghton is a social worker who has served as the Director of Human Services Programs for the inter Tribal Council of Arizona, Inc. and who assisted in most of the tribal governments in Arizona to plan and implement social services programs.

[12] Interview with Edwin Gonzalez-Santin, MSW, Professor, Humbolt State University, Arcata, California.

- The presenting problem is not always the real problem, therefore, a careful analysis of the family situation is important.
- A good case plan will follow from a careful analysis of the family situation.

This problem solving method systematically shows a supervisor how to teach good casework.

1. Analysis of the Problem

a. Examples of *presenting problem*

- A child is picked up by the tribal police because he or she has run away from home.
- A child is picked up by Child Protective Services and is reported abandoned at a shopping mall in a city off the reservation.
- The school reports that the child is coming to school dirty and hungry.

b. Examples of sources of referral

- Tribal police
- State Child Protective Services Agency
- School teacher or principal

c. Information about the child's home

- Household composition
- Names, ages and relationships of residents
- Source(s) of family income
- Homeowner: family (including extended family) member or landlord
- Informal community supports available to the family (Examples: relatives, friends, minister)
- Formal supports available to the family (Examples: Head Start or day care program; community health nurse; WIC program)

A careful analysis of the family situation may show that the in the case of the runaway child, the child is not the problem. The family is the problem and the child is attempting to escape a difficult situation. For example, an analysis of the family situation might reveal that the head of the household has been laid off from his job, and the family is suffering from financial stress.

In the case of the "abandoned" child, a closer look may show that the child has wandered off to look at toys in a department store, got lost and the family was unable to locate the child.

In the case of the child coming to school dirty and hungry, a home visit may reveal that the father is absent, the mother is sick, unable to care adequately for the needs of the child.

Too often, the basic questions about a family situation are forgotten, especially by people who have no casework experience. For example, several years ago, the director of the Bureau of Indian Affairs Social Services program held a meeting with field social workers. He gave them a hypothetical case of child abuse and provided what he thought were the key factors: the child's injuries, the police report and the charges against the parents. Then he turned to one of the social workers and asked in a haughty manner, "and what is the first thing you would do in this case, Miss Social Worker?" An experienced caseworker, she calmly answered, "The first thing I would do is find out the child's name." One may appreciate the pin-prick irony of this *non-sequitur*, a telling point for those who allow themselves to become remote from the daily practice of direct service.

2. Case Plan

The case plan always should be developed jointly with the child's family. If the parents are not immediately available, grandparents, aunts and uncles or adult siblings can and, maybe, should be engaged. The case plan should include short term, long term and ultimate goals. This produces a case plan which can be used as a flexible guide to working with the family and not a rigid schedule to be met, "or else." But "flexibility" should not be confused with a lack of professional case records. The case plan should be clearly written, detailed and logically related to the written analysis of the problem

a. Short term goals

These consist of immediate actions designated to ameliorate the problem, necessary for the protection of the child or the children.

In the example of the run away child, the short term goal would be to restore income to the family through Food Stamps, aid to Families with Dependent Children (AFDC) or other types of contingency planning, pending longer term goal setting for self-determination. In the information on the child's home it is important to find out whether the homeowner is a family member or a landlord. If the family rents the home, an immediate action would be to negotiate with the landlord to prevent eviction of the family. Fear of eviction and worries about money create stresses for the family and are reflected in the child's behavior. Children often react to stressful situations at home by "acting out" in school or the neighborhood. This makes them targets for superficial labelling as "incorrigible" and consequent placement in juvenile detention. Such actions are often shortsighted and accompanied by tragic consequences.

In the case of the "abandoned" child, the immediate action is to locate the family and send the child home. The caseworker might provide the family with information on how to report lost children in an urban area and encourage the family to talk to the child about wandering off.

In the case of the hungry child, the immediate action would be to obtain homemaker services to help the family with meals and laundry.

b. Long Term Goals

These consist of long-term or continuing activities that are needed to assist the family to remain intact.

In the case of the"runaway" child, the long-term goal would aim for the head of the household to obtain employment.

In the case of the "abandoned"child, there would be no long-term goals.

In the case of the sick mother and the hungry child, the caseworker can ensure the child's participation in free or reduced-price lunch program at school and also assist the mother to claim child support from the absent father.

Helping a family to recognize its strengths can be a difficult task, but it is a critical process for the caseworker in preparing a realistic case plan. The family should be encouraged to see that its value on employment and hard work is part of its strength, that accepting Food Stamps and AFDC payments are only a temporary solution to aid in the search for steady employment. Families suffering economic or emotional difficulties are already under considerable stress, having to discuss those problems with outsiders adds to the stress. It is important for the caseworker to recognize the issue and then help the family focus on its strengths to identify possible solutions while reducing stress.

3. Working with Families

Hopefully, the child welfare caseworkers themselves will be parents, able to identify with both the challenges and rewards of raising children. Whether or not the caseworkers are parents, it is helpful to review with child welfare caseworkers the basic principles working with families.

a. Understanding the Basic Needs of Children

Indian children have the same basic needs as all other children for physical and emotional security. The elements of physical and emotional security include:

- Love and nurturing
- Adequate food
- Shelter
- Self-esteem
- Discipline, including clear and reasonable limits for acceptable behavior
- A sense of identity and belonging
- Good role models
- Education and health care

One of the strengths of many Indian communities is that extended families still exist. (Learn about the extended family structures in Indian communities.) Relatives other than parents often play significant roles in child rearing; a child will have both blood as well as clan relatives. One of the important functions of uncles is their role in providing guidance and discipline.[13]

Extended families are important for a child's sense of identity and belonging. For example, Hope families include the child's uncle and/or ceremonial father, who have traditional roles in guidance and training. They also include natural and clan brothers and sisters, aunts, uncles, nieces, nephews who ensure a wider base of kinship and companionship and, at the same time, more intensified relationships.

The author, as a child, routinely spent time with his grandparents. His mother a single parent, "rotated" four children with each child spending a summer or even a year at a time with grandparents. This was a healthy arrangement, which allowed the children to form close attachments to the grandparents. The author formed a lifelong emotional attachments particularly to his Hopi grandmother and has strong memories of his Hopi great-grandmother.

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[13] For discussion of Hopi families see Helen Sekaquaptewa as told to Louise Udall, *Me and Mine*, and Polingaysi Qooyawyma, *No Turning Back*.

Grandparents, aunts and uncles (in the Hopi kinship system, maternal blood and clan sisters, paternal blood and clan brothers retain and assume parental roles to their collective offspring) all can provide important nurturing for children. Adult relatives can give a child special attention, which is important for the child's self-esteem and intellectual growth. Being the "favorite" nephew, niece or (in the case of Hopi tradition) a ceremonial child can be important to a child, particularly a child of a family which may not have the means to provide beyond basic sustenance. Such a special relationship can present enriching experiences not readily available from the natural parents.

Adult relatives can teach lessons to the child that the parent may not have the energy to provide. These lessons may include not only "how to behave," but also how to perform important tasks that are necessary to the economy of the family: chopping wood, hauling water, hunting and fishing, repairing automobiles, fixing leaky faucets.

Where do we learn how to raise children? We learn from watching those around us. We learn from asking questions and accepting guidance. We learn from reading books. But most importantly, we learn from our memories of how our parents raised us. Many Indian people grew up in Federal boarding schools during the early and mid-20th century; they have few memories of being raised by parents because they were raised by dormitory matrons and disciplinarians.

This reflects the federal policy of governing the education of American Indians. The results of this policy are that in most Indian communities, Federal boarding schools replaced in significant degree the role of the family and altered its natural functioning during the early to mid-1900's.

Indian people reaching school age during the enforcement of U.S. assimilation policy through education, spent all of the formative learning years in Federal boarding schools. When they did have children, they sent their children to boarding schools. Sometimes this pattern persisted for three or four generations. The institutional replacement became the mechanism for the systematic creation of an artificial, institutional "family" culture for generations of people whose natural relationships and systems were largely displaced, destroyed or altered beyond recognition.

Finally during the 1980's, the Bureau of Indian Affairs, unilaterally, began to close some of the off-reservation boarding schools, having decided, in a cavalier twist of irony, that "Indian children are better off at home." Finally forced to raise their children because of the closure of boarding schools or because the child was returned to home, the parents often were either totally permissive or harsh disciplinarians or both.

The Federal government made no attempt to work with Indian communities to prepare them for the return of substantial numbers of children to community and family structures which has long since lost their dominion. No efforts were made to assist Indian communities to develop child welfare services. In some Indian communities where the families had sent their children to off-reservation boarding schools for several generations, they simply changed the focus of their expectations. Instead of relying upon the Federal government to raise their children, the Indian families turned to the tribal government to raise their children. Tribal educational agency staff filled a role it saw for itself by taking children on camping and field trips; tribal juvenile probation staff were expected to provide discipline when parents lost control of their children.

These responses, inappropriate by any standard, reflect on how important it is for tribal child welfare programs to avoid the temptation to replace the role of Indian parents and, instead, to assist Indian families to regain their original family relationship and roles, if possible, or to form responsive structures and systems, if necessary.

In many Indian communities one of the tasks is for families to learn again how to function; for the parents to learn how to be parents and for the children to learn how to be children, within the context of the community culture, values and practice. While this problem, may be exacerbated in Indian communities because of Federal boarding schools or policies which encouraged the breakup of Indian families, family dysfunctioning, as a social phenomenon, is not unique to Indian families. In anticipation of the childbirth this author attended childbirth class with his wife. The last session of the childbirth class covered the basics of how to care for the baby when the parents take him home. The instructor described how to hold the baby, how to wrap the baby in blankets, how to feed the baby and how to change diapers. This was not a class for Indian parents. This was a class for mostly non-Indian upper-income professional people. The point is that, with the breakup of the extended families, grandmothers and aunts have been replaced by Lamaze classes and child care instructors.

b. Understanding the Basic Needs of Parents.

Parents have the same needs for physical and emotional security as the children, except at an adult level. Parents also need information about parenting and care for children. Ideally, this information should be provided by the extended family members who are supposed to know these things. This information can be supplemented by public health nurses, Head Start teachers, WIC outreach workers and by child welfare caseworkers.

Parents themselves need health care. Parents who are ill seldom have the energy and patience for good parenting skills. Parents need community support for the responsibility of being a parent. In the general society, community recognition of the importance of parenting is diminishing in relation to values on employment status, income and possessions. Although the United States may be a "first world" nation in economic, military and political terms, we are a "third world" nation in terms of social and public policies of support for the family, maternity and paternity leave, child care and access to prenatal care for low-income families.

4. Basic Principles of Child Welfare Casework

Children should live in supportive, nurturing environments preferably with their own families. The case plan should emphasize helping a family remain intact and solve its own problems as much as possible.

If it should become necessary for a child to be placed in out-of-home care, the situation should be temporary. Every effort should be made to improve the child's home environment so that he or she can return home.

A day is a long time in the life of a child. Therefore, speed is essential in working with children. If, after much effort, the child's home setting does not improve, some permanent plan should be made for the child's care so that he or she is not left "in limbo." This relates again to the importance of having a sense of identity and belonging, an important element of emotional security.

In Indian communities a permanent guardianship arrangement often is preferable to a formal adoption. Care of children by grandparents or their relatives is not unusual.

Tribal administrations and councils have recognized the need for group home settings as a way of addressing child welfare needs.

Unfortunately, one of the problems of Indian child welfare casework on Indian lands is the lack of casework supervision which too often results in Indian children being "warehoused" in institutional settings. Children have been known to continue in "temporary" placements for years. Supervisors should ensure that children are not left in these situations.

Special care must be taken when working in communities where English is not the predominant language. For example, a social work consultant was assisting the White Mountain Apache Tribe in Arizona to plan a contract with the Bureau of Indian Affairs to operate a social services program.[14] A review of these case records revealed many Apache children had been removed from their homes. It was suspected that the parents, who were primarily Apache-speaking, did not understand that their children were being removed permanently. The consultant asked the BIA social services supervisor if Apache-speaking translator had been used to clearly explain the reasons for the removal of the children, and the rights and options of the parents. The BIA supervisor assured the consultant, in front of the tribal council human services committee, that "everyone on this reservation speaks English." Right after the BIA supervisor made that statement, the committee conducted the rest of the meeting in Apache. In most reservation communities the native language still is the primary language, so it is important to provide the native tongue; furthermore, in stressful situations, often the first skill to be lost is proficiency in English for people for whom English is a second language.

B. CASE REVIEWS AND CASEWORK EVALUATION

It is important to have written and objective procedures for evaluating casework. Periodic review of case records is an essential tool for casework supervision.

1. Policies for Case Records

The child welfare agency should have clear, written policies regarding case records. The policies should spell out who has access to the case records and for what purpose. Client confidentiality should be protected.

2. Utilizing Case Records for Evaluation

The supervisor should ensure that there are clear policies and procedures for case records. The case records should include written detailed information about the child's home and a detailed analysis of the problem including home study and a detailed case plan containing short-term and long-term goals. Case records should be updated with each interaction between the caseworker and the family.

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[14] Interview with Ruth Houghton, November, 1990.

The supervisor periodically should review the case records to see if they are clear and detailed. The test should be: "would a fellow social worker be able to pick up this case and understand the family situation from the written record?"

C. CASEWORK CONSULTATION

The supervisor should ensure that consultation is available to the child welfare caseworker.

1. Multidisciplinary Consultation

Multidisciplinary consultation often is required in the following situations:

- Child abuse: the child should be examined by a doctor for evidence of physical abuse.[15]
- Children with special needs: all children should receive Early Periodic Screening and Testing to reveal their developmental disabilities.
- Sexual abuse: children should be examined by professionals who are trained to conduct sexual abuse interviews.
- Psychological evaluations: should be utilized for children being considered for out-of-home placement.

2. Supervisor Consultation

The supervisor should be available to the caseworker for consultation on cases. The consultation can be an informal "just talking things over," or formal, assisting the caseworker with difficulties.

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[15] For a thorough discussion of child abuse defined for public welfare workers in Indian communities, see Gloria Fohrenkam, "Child Abuse and Neglect," in *Collaboration: The Key,* School of Social Work, Arizona State University. For detailed procedures for child protective services on Indian lands, see *Indian Child Protective Services Training Academy Manual,* Inter Tribal Council of Arizona.

3. Peer Consultation

Fellow caseworkers should be seen as valuable resources based upon their particular experiences and skills:

- Experience with child abuse and neglect
- Bilingual skills
- Knowledge of human services systems such as Supplemental Security Income and Food Stamps

D. CASEWORK TRAINING

Casework training is an on-going process. This section of the introduction could be entitled "supervision as training." The most effective training is not labeled "training," but is instead part of the everyday process of programs operation. The keys to effective training are: clear program goals, clear understanding of staff roles and open communication among staff.

Fifteen years ago, social services on Indian lands were provided by Bureau of Indian Affairs social workers. Most of the BIA social workers had been on the job five, ten or fifteen years. They had extensive field experience, they had settled working relationships and they had clear supervisor/caseworker relationships. Casework was learned from the supervisor and from fellow social workers over a period of year.

In the past ten to fifteen years, however, there have been major changes in Indian social services programs. Since 1980, eighteen to twenty tribal governments in Arizona have contracted with the Bureau of Indian Affairs to operate social services programs. This means supervisory and casework staff have changed practically every program. In addition, there have been changes as Indian social workers have replace paraprofessionals. There have been changes through the addition of new programs funded by sources other than the BIA. Finally, there have been changes in staffing that have resulted from simple, normal staff turnover.

1. On-the-Job Training

The conditions of change described above clearly indicate the need for on-the-job casework training. On-the-job training consists of both formal casework evaluation and informal, everyday casework consultation. On-the-job training is very important because social casework really is learned on-the-job. Casework skills refer to skills in working effectively with people and those skills come with time and experience.

The staff of the Social Services Branch, Bureau of Indian Affairs, Phoenix, Arizona Office, provides valuable training in casework skills both to BIA and tribal social services programs in Arizona, Nevada and Utah. On-going and periodic training in casework skills is vital to respond to the turnover of social services staff because there is still a lack of professional training.

2. Workshops

Workshops can be a valuable source of training and casework staff. Be careful to screen the workshops, however, to ensure that the content is relevant to the work situation and that the trainers themselves have experience in the areas that they are presenting.

Professional conferences can be valuable enablers for caseworkers to learn that there are other people in the world who have similar work situations and experiences. Conferences can be valuable for sharing solutions and skills.

A good supervisor will ensure that the caseworkers have opportunities for professional exposure and development beyond the reservation and urban Indian community boundaries.

3. Professional Training

Strong supervisors utilize various resources for professional training. One valuable source is experienced caseworkers who can provide the basics of casework for paraprofessionals. Other resources include experts in child development, family dynamics and substance abuse prevention and treatment. The key to effective utilization of professional trainers is clear identification of training objectives.

One excellent source of professional training is the Indian Child Protective Services Training academy sponsored jointly by the Arizona Department of Economic Security, Administration for Children, Youth and Families and the Inter Tribal Council of Arizona.

4. Return to School Programs

It is important to encourage paraprofessionals social workers to attend school or to return to school to obtain degrees in social work. Unfortunately, this is not always an easy option, both from the perspective of the program as well as the perspective of the individual.

It is difficult for underfunded programs to budget funds for long-term training. It is also difficult for caseworkers with families to meet both family obligations and the demands of college classwork.

The Arizona State University School of Social Work has experimented with field instruction to provide social work foundation courses in rural and reservation areas of Arizona.

E. CHILD CUSTODY PROCEDURES

A tribal government may or may not have formal child custody procedures. Child custody procedures include written legal policies to apply in cases where children need to be removed from the home and placed in out-of-home care for any reason. If the tribe does have such procedures, then the supervisor must train the staff in the use of the procedures.

If the tribe does not have formal procedures, then one of the tasks of the supervisor is to draft procedures. The supervisor may begin by asking for copies of procedures adopted by other tribal governments. The supervisor will also want to incorporate the tribal community's values and philosophy about children and parents into development of procedures. Attached to the end of this discussion is Appendix A outlining suggested child welfare codes and standards.

In training staff on existing procedures, the issues of due process and liability need to be emphasized.

Tribal staff should be thoroughly familiar with the Child Welfare Act.

F. PLACEMENT OF CHILDREN

Removing children from their families is serious business. Every effort should be made to assist families to stay together. In cases where children need to be removed from their safety or protection, there should be clear and convincing proof of the need for such removal.[16]

1. Foster Homes

Only foster homes that have been licensed by the tribe should be utilized. Also, the foster home placements should be carefully supervised. It is not uncommon for foster children to be abused by other children who have been abused. In addition, foster children sometimes are abused by foster parents. Sometimes people volunteer to be foster parents, not out of concern for the children but because the foster care payments may represent cash income. Therefore, careful screening and close supervision is essential.

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[16] See Robert Robin, "Out-of-Home Care," Collaboration: The Key.

2. Group Homes

Only group homes that have clear track records of successful management and good service to children should be utilized.

There is often a danger of "warehousing" children in group homes.

3. Placement Supervision

Placements in substitute care should be supervised carefully with periodic visits to the placement site. Close supervision of caseworkers who have placed children in out-of-home care is important to prevent the child from staying in placements longer than absolutely necessary, to ensure that efforts are made to assist the parents to see that the family can be reunited, and to prevent neglect or abuse of the children in the placement setting.

4. Family Services

The caseworker should provide or arrange for services to the family during the time that the child is in out-of-home placement. The services may include substance abuse treatment, employment planning, and personal counseling.

5. Permanency Planning

If, for some reason, a child cannot be returned to his or her biological parents, then the caseworker should make efforts to find permanency. Again, the preference on many Indian reservations is a long-range guardianship arrangement with a close relative. Adoptions to non-Indian families is rarely satisfactory as long-range solution, particularly when the child reaches adolescence and begins to wonder about his biological family and his background.

G. ADMINISTRATIVE ORIENTATION FOR CHILD WELFARE STAFF

One of the most important tasks of supervision is to keep the staff well informed regarding administration of the program. Casework administration will be discussed in the next section. However, the key point here is that the caseworker should be informed clearly about administrative requirements of the program and about administrative changes such as funding changes that may affect them personally.

III. ADMINISTRATIVE SUPERVISION

This section describes the tasks that must be performed by a child welfare services supervisor both to develop a child welfare program and to insure the survival of a child welfare program. It is rare to find a situation where the supervisor is able to step into a ready-made program where the funding is guaranteed, the program fully developed and needs simply to be maintained.

Instead, the conventional reality is that the self-determination contract, with the Bureau of Indian Affairs to operate the tribe's social services program is underfunded and is facing reductions in the BIA's annual budget request to the Congress. In addition, the Indian Child Welfare Act funding is year-to-year, with no assurance of long-term funding and dependent upon congressional appropriations. Since enactment of the Indian Child Welfare Act in 1978, the Administration has never requested and the Congress has never appropriated more than $9 million to meet the Indian Child Welfare needs of more than 300 tribes and almost 200 Alaska Native villages.[17] The standards for the grant applications and the review criteria are applied differently from one BIA Area Office to another.

Therefore, resource development and program management are critical to the survival of Indian child welfare programs.

A. PROGRAM PLANNING

The child welfare program plan should focus on the realities of the particular Indian community or tribe. The best way to discover the realities of a community is by talking to its member and studying the information available about the community.[18] The section describes program planning based upon community research.

1. Community Resource Inventory

One of the best approaches to planning is the Community Resource Inventory. The inventory consists of identifying all of the resources available for a particular purpose in a particular community, in this case, child welfare services on and near Indian lands. The resource inventory is done by talking to people. An observant planner or supervisor will learn a great deal about the community and about child welfare needs in the process of conducing the inventory.

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[17] Bureau of Indian Affairs, *Justification of Budget to the United States Congress*, various years. See also, United States Senate, Senate Select Committee on Indian Affairs, *Hearing on the Implementation of the Indian Child Welfare Act of 1978*, 1980.

[18] For a discussion of respectful attitudes in studying communities, see Rosalie Wax, *Doing Fieldwork*. Also, Michael Hughes, "Interview with Robert Coles," unpublished review notes, 1976.

The opportunity to conduct a Community Resource Inventory is an extraordinary privilege and the community being studied should be treated with appropriate respect and protocol. It is one of the few opportunities that a supervisor will ever , legitimately, have to ask a lot of questions about programs, resources and the community. The people being interviewed should be treated with polite respect and the information gathered and should be treated as valuable treasure.

The first step is to obtain the permission of the appropriate authorities on the reservation, generally the tribal chairman or the director of the tribal human services program or division. A legitimate question to anticipate is: "why are you doing this research and who are you doing it for?" This is an important question to answer, particularly because Indian communities have been the subject of much social research which is rarely accountable to the community.

Next, make a list of all the programs that have anything to do with the child welfare services. The list should include the following:

- Tribal or BIA Social Services
- State or county social services (AFDC, Food Stamps)
- Child Protective Services, tribal, state, county
- Health service providers
- Schools
- Head Start and day care programs
- Tribal law enforcement
- Tribal court
- Alcohol and substance abuse programs
- Tribal housing authority
- Major employers
- Women's, Infant's and Children's (WIC) nutrition program
- Local churches and representatives of child advocacy organizations

Make a brief list of discussion questions. You do not want to administer a questionnaire. Instead, the objective is to engage the person being interviewed in a general discussion. The order of the questions and answers do not matter as much as the information being provided.

The first several times you use the list of discussion questions, you many want to give a copy of the questions to your informant out of courtesy and respect. After two or three interviews, you should be able to dispense with the list and conduct a more "natural" discussion rather than a structured interview. A sample list of questions is attached in the instructor's section, as Appendix B.

The supervisor/planner should be flexible in asking the questions and tailor the specific questions to the situation. For example, in interviewing a school principal, instead of "What services does your program provide?" you might ask, "What grades do you serve?"

The supervisor/planner should take detailed notes and write up descriptions of the program and resource as soon as possible after each interview. The ideal schedule is no more than two programs per day, with a write up of program descriptions on the same or the next day. It is good practice to provide a draft copy of the program description to the person interviewed and to ask him/her for comments and corrections. This insures that you have accurate information, and it lets that person know that you care about the information that he or she has given you.

All of the program descriptions should be compiled into a resource directory, complete with phone numbers, names and titles of program contacts. The resource directory will be a valuable tool for the child welfare caseworkers.

Most importantly, the supervisor/planner will learn a great deal very quickly about available resources and about child welfare needs. Instead of taking six months to learn about all of the community resources, one can learn a great deal in two weeks, using the community resource inventory method. The discipline of writing down the information and compiling the program descriptions will assist the supervisor to memorize information about all of the resources.

Actually there will be several products from a thorough inventory:

- Detailed descriptions of child welfare service programs and resources
- A list of child welfare issues in the community as seen from various perspectives
- A list of contact people with whom to coordinate services
- A list of unmet child welfare needs, which can form an important basis for program planning

2. Tribal Jurisdiction

It is essential to understand the jurisdiction of the tribe regarding child welfare matters. First, the broad question:

- Is this a "280" or a "non-280" state?

Public Law 280, passed by the United States Congress in 1953, conferred to states criminal and civil jurisdiction over Indian lands. The law was enacted as part of a broader effort to terminate the political relationship between the United States government and tribal governments, to dissolve tribal land holdings and to assimilate Indian people into non-Indian society. Jurisdiction was conferred on six of ten states submitting petitions: California, Minnesota, Nebraska, Oregon, Washington and Wisconsin.[19]

Coincidentally, it was during the 1950's that Indian children were being moved from their homes at an alarming rate. The philosophy of the termination and assimilation helped to legitimize the efforts of the Bureau of Indian Affairs, private social services agencies, and churches in referring Indian Children to non-Indian adoptive and/or foster families. It was the lack of legal protection for Indian families that eventually led to the enactment of the Indian Child Welfare Act.[20]

Public Law 280 status does not mean that a tribal government has no jurisdiction. It means that the state is authorized by the Federal government to exercise concurrent jurisdiction on tribal lands. The Indian Child Welfare Act contains provisions for tribal governments to regain exclusive jurisdiction in Indian child custody matters.

The planner/supervisor should determine if the tribe has a child welfare or family welfare code. If so, the supervisor should become familiar with the code. Given their relatively young nationhood, most Indian communities have yet to develop child welfare codes based upon local organizational structures and tribal community values. Therefore, one of the tasks of the supervisor is to work with various organizations and members of the community to develop such a code for adoption by the tribal council. These various elements might include the tribal police, the tribal court judge as well as community residents. Too often, in Indian communities, legal codes are developed in isolation by outside attorneys or consultants who do not take into account organizational structures and values of the community. Instead they utilize "boilerplate" documents or "model" codes word for word.

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[19] Felix Cohen, *Handbook of Federal Indian Law;* see also, Sid Beane, "Indian Child Welfare Social Policy History," *Collaboration: The Key,* p. 4

[20] William Byler, "The Destruction of Indian Families," Association of American Indian Affairs, 197- and "Indian Child Welfare: Statement of the Problem," unpublished report, 197-.

3. Tribal Demographics

There are many sources of demographic information on individual tribes. They include:

- *the tribal enrollment office*: This is the most complete source of date regarding enrolled tribal members. The enrollment data should include family composition, genealogies, clan affiliation, birthdates, birthplaces and residence. However, the enrollment data will not include non-enrolled tribal residents or residents of the community who are from another tribe or who are not Indian.

- *BIA annual population and labor force estimates*. The labor force estimates are just that: estimates. They are submitted annually by the BIA Agency Superintendent to BIA Central Office. Sometimes the data is based upon extrapolations from very reliable sources and sometimes upon guesses and "windshield surveys" of the reservation. The estimates include age, income and employment categories which are necessary for the understanding of economic conditions.

- Decennial census date. This is the date available from the national census conducted every ten years. Date can be very detailed and useful. However, one limitation is the problem of undercounting rural, low income and ethnic minorities populations. Indian communities have all three characteristics.

- *Indian Health Service statistics*. The Indian Health Service (IHS) has several database systems which can be very valuable but which are rarely used for planning. Out and in-patient statistics from an IHS clinic can be very useful for learning about patterns, or lack of prenatal care, deliveries (including complication of delivery) and pediatric care.

- *Juvenile court cases*. Granted, the court should not release details of individual cases. However, the tribal court clerk can compile the number of juvenile court cases by type: status offense, child custody; also by other characteristics, for a useful profile.

- *BIA Social Services data*. The number of individuals and cases receiving General Assistance for foster or institutional care.

- Law enforcement statistics. Numbers of juvenile cases by type.

- *School enrollment.* Public schools can provide the numbers of Indian children enrolled reflecting counts for Federal program funding requirements for Johnson-O'Malley, Indian Education Act and Impact Aid programs. Schools also should be able to provide numbers of children who have individual Education Plans (IEPs) required by the Education of All Handicapped Children Act.

- *Head Start enrollment.* In addition to enrollment numbers, the Head Start staff can provide information about children unable to participate because of funding limitations.

- *Aid to Families with Dependent Children (AFDC).* It is important to obtain from the state and county welfare agency the number of AFDC cases and recipients residing on Indian lands. this data is a strong indicator of poverty and unemployment. Data should include both the numbers of single-parent and two-parent families and families participating in the Job Opportunities and Basic Skills (JOBS) program. In most states, AFDC recipients are categorically eligible for Food Stamps and Medicaid Benefits.

- *Women's, Infant's and Children's (WIC) nutrition program.* The WIC participation statistics will provide the data regarding the number of infants and pregnant women in the community.

4. Child Welfare Service Needs

The research and data described above should provide comprehensive information reflecting child welfare needs of an Indian community. It is important to test the conclusions from the data. This should be done by and with community participation. Also seek views from a wide variety of sources. For example, in looking at elementary school populations, talk not only with the school principal, but also with teachers, teacher aides, the school nurse, the bus drivers, and the cooks to get a complete picture of the community from many different sources.

In talking with tribal law enforcement officers, it is important to spend some time with them to learn more about their point of view. Spend a half day riding on patrol with the officers.

Encourage and assist the community to think about its child welfare needs from various perspectives. In the section on "Casework Supervision," we stated that an analysis of the problem is important because the presenting problem is not always the real, underlying problem. This can be as true on a community level as it is on a family level. For example, a social service consultant once asked the Hualapai Tribe to help in planning a youth detention center. The community was experiencing problems with juvenile delinquency, youth vandalism and alcohol use. The consultant asked questions about recent charges in the community. It turned out that the community recently had built a number of new homes which included indoor plumbing and heating. It also turned out that before the new homes were built, young Haulapai people were expected to chop wood for heating and haul water for cooking and cleaning. The construction of the new homes eliminated an important social and economic role for the people, who found themselves with a lot of free time and no constructive physical outlets for their energies. The consultant helped the community to view the problem in alternative ways and the result was a recreation program instead of a juvenile detention center.[21]

5. Community Participation

Make certain to include levels of community participation in the design and on-going evaluation of a child welfare program. Community participation can be both formal and informal.

Formal community participation requires approval by the tribal council for the establishment and operation of any program located on tribal lands, particularly those utilizing tribal funds or other resources. For further discussion on tribal organizational structure and management, the reader is referred to Chapter 3, "Administration and Management."

- Tribal Council approval for the establishment of a program provides the authority to submit a proposal for funding and legitimacy of its actions.

- Most tribal councils have committees which review and discuss matters in detail prior to formal tribal council consideration. These include human services committees.
  Generally it is wise to establish working relationships with the community participation forums that exist in the community. The members of various advisory boards often represent the leadership in a community. However, one always should be aware of the leadership behind the leadership which , in tribal communities, is likely to take the form of family relationships including clan relationships, religious and spiritual leaders and

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[21] Interview with Ruth Houghton, November, 1990.

generally respected member of the community such as veterans. Other forms of community participation include:

- Head Start advisory councils. These councils should be consulted when planning programs that affect preschool children.

- School boards. Consider that schools receiving Johnson-O'Malley or Indian Education Act funds are required to have parent advisory committees.

- Elderly Program Advisory Committee. Each tribe receives Older Americans Act funds and operate a senior citizens center or an elderly nutrition program usually as an advisory committee. The elderly members of an Indian community are often valuable sources of information regarding the history of the community, traditions and values regarding the raising of children and community leadership.

6. Tribal Government Structure

Every tribe, like every state, county or municipal government, has a different organizational structure. The organizational structure includes lines of authority, communications, working relationships and program groupings or separations.

The supervisor should obtain a copy of any organizational structure charts. However, the supervisor should keep in mind that organizational structures are always changing depending upon such variables as funding, staffing, changes in community needs, the personalities of staff, and so on.

7. Sources of Technical Assistance

The sources of technical assistance for tribal child welfare programs in Arizona include:

- Inter Tribal Council of Arizona, Inc. ITCA provides tribes with resources in program planning and proposal writing, coordination of programs, resource development and intergovernmental relations. Its Indian Child Protective Services Academy is the professional equivalent of the CPS Academy for the State of Arizona. Its Annual Child and Family Conference is valuable for professional exposure to new ideas and sharing of solutions.

- Arizona Department of Economic Security, Administration for Children, Youth and Families. ACYF employs and Indian Child

Welfare Specialist who can assist tribes to plan child abuse and neglect prevention and treatment programs. The specialist also assists individual tribes to negotiate intergovernmental agreements for child welfare and child custody proceedings with the State of Arizona. ACYF sets aside part of its annual funding for child abuse prevention and treatment grants for tribal governments, which has been important in the development of child protective service systems on Indian lands in Arizona. In addition, ACYF oversees Social Services Block Grants (Title XX of the Social Security Act) funds that tribes in Arizona use for child welfare services.

- Bureau of Indian Affairs Phoenix Area Office - Social Services Branch. The BIA and tribal social services program staff on the basics of casework. This training is very important because of the relative lack of trained and experienced caseworkers on Indian lands and because of the rapid turnover of social services staff caused by contracting and funding changes on reservations in the past ten years. BIA social services staff also can assist with contract administration, including preparation of financial reports and the very important quarterly analysis of grant funds.

B. RESOURCE DEVELOPMENT AND PROGRAM FUNDING

There is no one source of funds to meet all the child welfare service needs on Indian lands. Tribal governments must piece together funds from various sources in order to provide comprehensive services. The source of funding for child welfare casework services are described below.

1. Self-Determination Act Contracts

The basic source of funding for the tribal government social services programs is the Bureau of Indian Affairs (BIA) Social Services Program. The BIA provides funding for social services staff and for welfare assistance grants. (The BIA also provides Indian Child Welfare Act grants, but these are discussed separately below.)

Tribal governments can contract with the Secretary of the Interior to operate social services, under the provisions of the Indian Self-Determination Act.[22]

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[22] The Indian Self-Determination and Education Assistance Act, Public Law 93-638, as amended by Public Law 100-472. See United States Congress, Senate Select Committee on Indian Affairs, Indian Self-Determination and Education Assistance Act Amendments of 1987, Senate Report 100-274, for the legislative history of Public Law 100-472 and a discussion of tribal human services and Self-Determination Act contracting.

The funds available to the tribe will be the tribe's share of funds at the BIA Agency. In single-tribe agency, that amount will be the entire agency social services budget. In a multi-tribe agency, the amount will be a proportional share of the funds available from the Agency.

There are two general "pots" of money available from the BIA:

- Social Services "Administration" funds the social services staff and program operating expenses (office space, supplies, travel).
- Welfare Assistance grants funds General Assistance payments to individuals and payments for institutional care of children and adults. This also provides burial and emergency assistance.

Planning the process to contract with the BIA to operate a social services program requires the following documentation:

- The annual Agency budget, usually called the "Indian Priority System" or "IPS" document. This will provide approximate figures for the amount of dollars spent at the Agency for social services.
- Annual analysis of General Assistance funds for the most recently completed fiscal year. This report will provide quarterly and annual date on caseloads and expenditures for General Assistance (General Assistance Payments: GA, Tribal Work Experience Program, Institutional Care), Child Welfare Assistance (foster care, residential care and special needs), Miscellaneous Assistance (burial and emergency) and "Service Only" cases.

2. Contract Support Funds (Indirect Costs)

In addition to the social services administrative and welfare assistance grants, the third source of funds for program operation is called "contract support funds." BIA contract support funds are used to fund tribal indirect costs associated with contracts under the Self-Determination Act.[23]

Indirect costs pays for such essentials as the tribal finance system, the maintenance and repair of tribal buildings, the annual single agency audit, some tribal council costs, utilities, tribal vehicle costs and liability insurance. The specific items which are included in the tribes indirect costs pool depend upon the organizational and financial structure of the tribal government. For details, the supervisor should consult the tribe's indirect cost proposal, negotiated with the Federal cognizant agency, and the letter from the cognizant agency finalizing the rate. For almost all tribal governments, the cognizant agency is the Inspector General of the Department of the Interior.

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[23] Affiliated Tribes of Northwest Indian, *Indirect Costs*, 1987; United States Congress, Senate Select Committee on Indian Affairs, *Indian Self-Determination and Education Assistance Act Amendments of 1987*, Senate Report 10-274; and United States Department of the Interior, *FY 1989 Report to Congress: Direct and Indireci Costs Associated with Contracting and as Required by P.L. 100-472*, Section 106 (c), May 15, 1990.

Others who can provide advocacy, knowledge and assistance are the tribal finance director and the office of the tribal chairman. The chairman's participation will ensure that the BIA allocates money from the contract support fund to pay the tribes indirect costs associated with the social services contract.

3. Tribal Resources

Tribal governments almost always contribute to the financing and support of children's services. Tribes that received royalty revenues in the 1950's and 1960's often established scholarship funds to assist tribal members to attend school. In the 1960's under the Office of Economic Opportunity Act, the priorities of tribal Community Action Programs including Head Start, Neighborhood Youth Corps and summer youth employment programs. Tribal governments also almost always supplement federally funded programs. There are roughly three categories of tribal revenue. Those in which:

- Tribes have no independent sources of revenue except Federal contracts and grants. About half of the 300 tribal governments in the lower 48 states, including almost all small tribes (populations less than 200) are in this category.
- Tribes have modest annual revenue from tribal trust funds or from tribal enterprises. Roughly half of the tribal governments in the lower 48 states are in this category.
- Tribes have relatively large annual revenues from large trust funds or from major enterprises such as coal mining or oil and gas extraction. Less than 50 tribal governments in the United States are in this category.[24]

Tribes that do have some sources of independent revenue almost always use these resources to benefit elderly tribal members and children. For example, the tribe may build senior citizen's center for the elderly and basketball courts for the children.

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[24] United States Department of the Interior, *Report of the Task Force on Economic Development*, 198?; and United States Department of the Interior, Bureau of Indian Affairs, *Annual Report on Indian Trust Funds*, 1990.

There is no such things as "free Federal funding." There is always a cost attached. Tribal costs include:

- The costs associated with planning programs and negotiating contracts.
- Indirect costs that are not fully funded because of Federal funding shortfalls or legislative restrictions on administrative costs.
- Federal program requirements of local cash or in-kind "matching" funds as a condition of eligibility.
- Other costs of Federal programs, since few provide sufficient funds for all program costs.
- Lines of credit. Congress rarely has enacted the annual appropriations bills to meet the beginning of the Federal fiscal year (October 1) in a timely manner. Tribes which are heavily dependent upon Federal funds must borrow in order to meet beginning of the fiscal year costs.[25] The Federal government does not reimburse tribes for the interest charge on lines of credit. The Indian Self-Determination Act Amendments (Public Law 100-472) call for the contract year to be shifted to the calendar year in order to avoid the cash flow crunch in the first quarter of the Federal fiscal year.

4. Indian Child Welfare Act Grants

The Indian Child Welfare Act of 1978 primarily addresses child custody proceedings. The Act probably should have been called "The Indian Family Protection Act," since it deals with procedures for avoiding the removal of Indian children from home and tribal jurisdiction. Except insofar as the Act prevents the unwarranted removal of Indian children form their homes, it does not and was not intended to, address the need for comprehensive child welfare service in Indian lands.

Title II of the Act authorizes grants to tribes to establish and operate programs to "prevent the breakup of Indian families and, in particular, to insure that the permanent removal of an Indian child from the custody of his parent or Indian custodian shall be a last resort."

Section 201 (a) of the Indian Child Welfare Act states:

The secretary of the Interior is authorized to make grants to Indian tribes and organizations in the establishment and operation of Indian child and family service programs on or near reservations and in the preparation and implementation of child welfare codes. The objective of every Indian child and family service program shall be to prevent the breakup of Indian families and, in particular, to insure that the permanent removal of and Indian child from the custody of his parent or Indian custodian shall be a last resort.

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[25] Michael Hughes, "The Tribal Costs of Federal Funding," Report to the Washoe Tribal Council, 1985, unpublished.

Such child and family service may include, but are not limited to:

1) a system for licensing or otherwise regulating Indian foster and adoptive homes;
2) the operation and maintenance of facilities for the counseling and treatment of Indian families and for the temporary custody of Indian children;
3) family assistance, including homemaker and home counselors, day care, after school care, and employment, recreational activities and respite care;
4) home improvement programs;
5) the employment of professional and other trained personnel to assist the tribal court in the disposition of domestic relations and child welfare matters;
6) education and training of Indians, including tribal court judges and staff, in skills relating to child and family assistance programs;
   a subsidy program under which Indian adoptive children may be provided support comparable to that for which they would be eligible as foster children, taking into account the appropriate State standards of support for maintenance and medical needs; and
7) guidance, legal representation, and advice to Indian families involved in tribal sate or federal child custody proceedings.

Grants authorized by the provisions of the Indian Child Welfare Act are an important source of funding for tribal child welfare programs but tribes should be aware that the BIA treats ICWA grant funds as time-limited. The lack of adequate funds in social services contracts forced many tribes to finance on-going child welfare services with the ICWA grant funds. Then, several years into the program, because of increased numbers of applications, shifts in funding, and allocations from one BIA Area Office, the tribes lost their funding. Some BIA Area Offices have implemented three-year grants in an attempt to alleviate the problem of uncertain year-to-year funding.

Tribes that plan to apply for ICWA grants should obtain from their Area Office, copies of the guidelines which list the factors used to rank the applications. Tribes should request assistance from the Area Social Service staff. For example, a tribe may submit a draft of the application to the staff **several weeks** in advance of the application deadline in order to receive comments and suggestions for strengthening the application.

If a tribe receives a ranking score that would qualify it to receive a grant, but is denied because of lack of funds, the tribe always should file immediately an appeal with the BIA.

5. Social Security Act - Title IV

The Social Security Act is the nation;s primary framework for Federal financing of human services.[26] Title IV of the Social Security Act includes the following programs:

- Aid to Families with Dependent Children (AFDC)
- Child Welfare Services
- Job Opportunities and Basic Skills (JOBS)

The AFDC program is financed by a combination of federal and state funds and is administered by the states. In Arizona, the Department of Economic Security administers the AFDC program through its Family Assistance Administration. In some states, human services are administered by the counties.

Indian reservation residents are eligible, on the same basis as all other residents of the state, to apply for AFDC benefits. Indian AFDC recipients are "case managed" by state or county caseworkers.[27] Therefore, tribal social services caseworkers should build positive working relationships with state and county caseworkers. AFDC recipients are, in most states, eligible for Food Stamps. On Indian lands, tribes often administer commodity food programs. Therefore, AFDC recipients may want to obtain commodity foods as an alternative to Food Stamps, particularly on Indian lands that are rural and very remote from grocery stores. AFDC recipients also are categorically eligible for Medicaid benefits, and should be assisted in applying to the State Medicaid agency. AFDC and Food Stamps benefits can be very helpful to a family with children that has fallen on hard times economically.

The Family Support Act of 1988 requires certain AFDC recipients to participate in JOBS training programs. The Act authorized tribal governments to apply directly to the Federal Family Support

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[26] United State Congress, House of Representatives, *Committee on Ways and Means, Compilation of Social Security Act Laws,* Ways and Means Working Committee Print, 198?

[27] Interview with Ms. LaVerne Yazzie, Reservation Unit Manager, Family Assistance Administration, Arizona Department of Economic Security, 1988.

Administration for funds to administer JOBS programs on Indian lands. The Act requires child care services for JOBS participants both during the period of training and up to one year after leaving the AFDC program. Therefore, supervisors who work with tribes that administer JOBS programs should look into the child care provisions.

The Secretary of Health and Human Services is authorized to make grants to tribal governments under Title IV-B of the Social Security Act.

6. Social Security Act - Title XX

Title XX of the Social Security Act provides Social Security Block Grants for states to enable them to provide a broad range of social services designed to assist families to become economically self-sufficient. Title XX services are based upon state priorities. One of the attractions of Title XX funding for states is its flexibility and its broad range of allowable activities.

The Social Security Act does not authorize the Federal government to provide Title XX funds directly to tribal governments. However, Indian reservation populations are included in state population figures that are used to allocate Title XX dollars. In addition, Indian reservation populations have many of the needs that Title XX funding is intended to address. In Arizona, the Department of Economic Security and Inter Tribal Council of Arizona have designed a system for the State of Arizona to pass-through to tribal governments a portion of the state's allocation of Title XX dollars. The tribes use the Title XX dollars to supplement either children's services or else services for the elderly. The tribal system is more fully discussed in the section entitled "Orientation to Tribal Government."

7. State Funds

States appropriate money to support human services. Most state appropriations for human services are dollars that are required bor state matching funds. For example, the Social Security Act requires states to provide a percentage of the funds in order to receive Federal matching funds for the AFDC and Medicaid programs.

However, states sometimes fund certain programs such as child abuse and neglect prevention and treatment programs. Tribal governments should work with their state welfare agencies to determine what funds are available and to develop a system for providing a share of the funds for tribal programs.

8. Other Resources

Other sources of funding for child welfare services include the Save the Children Federation and the United Way.

C. PROGRAM MANAGEMENT

Once a supervisor has obtained funding for a child welfare program, the next task is to ensure that the funding is spent properly, and that the required paperwork is submitted on time to the funding agency.

1. Contract and Grant Management

Every funding agency has its own management requirements. Even different Federal agencies operate their contract and grant management systems differently. Therefore, the supervisor should become familiar with the contract and grant management protocols of the funding sources. An expanded discussion is offered in this manual in Chapter 4.

For BIA self-determination social services contracts, the contract requirements include quarterly and annual program and financial statements, the "SF 272s." In addition, because of the welfare grant dollars, it is important to keep close tabs on General Assistance expenditures and to work closely with the contracting officer's representatives to ensure proper accounting and flow of funds.

2. Finance

One of the most critical matters of administrative supervision is to develop a good working relationship with the tribal finance office. This takes time and effort. Social workers often do not understand accounting and accountants more often do not understand social work.

The supervisor will need to understand the basic requirements of the accounting office: payroll documentation, procurement procedures and authorizations for expenditures. The Supervisor will need to ensure that the accounting office has a basic understanding of General Assistance payments to individuals and Child Welfare Assistance payments to individuals and Child Welfare Assistance to providers of out-of-home care. In addition, the supervisor and the accounting office both will need to understand the reporting requirements of the funding agency.

For several years the author was a planner for the Washoe Tribe in Nevada. Early in his work for the tribe, various programs managers, including the social worker, the clinic director and the law enforcement captain, asked the author to write funding proposals for the renewal of their self-determination contracts with the BIA and IHS. After each request, the author said that he would not write their proposals for them. Each of the program managers said, "But you're the planner." And he replied, "That's true but you know your program better than anyone else and I don't." Instead, the author offered to help them write their budgets, every line item in the budget had three zeros at the end -- $5000 or $2000, with little or no justification. The author assisted each of the program managers carefully to plan each line item in the budget based upon studied projections of cost. At the end, each program manager had a very carefully planned budget with detailed justification for each line item. The result was that the following year, the managers were better able to control their budgets because they had a detailed understanding of what was included in the budgets. Also, because of careful cost planning, the previous problem of large overexpenditures or underexpenditures in various line items was eliminated.

3. Personnel

The supervisor should be familiar with the tribe's personnel system. This includes procedures not only for hiring and firing personnel but also for health and life insurance, leave and retirement. Increasingly, employment is being defined by the courts as a form of "property right" and employers are finding it more difficult to defend arbitrary or poorly documented personnel actions.

4. Tribal Head

the tribal chairperson, or head, whatever the title may be, needs to be kept informed of both program performance and of matters that might need attention. The structure of the tribal government will determine the procedures for providing reports on program performance to the head person.

In social service programs, there are sometimes matters over which the client is dissatisfied with the service or the benefits determination. There always should be clear procedures for appealing caseworker decisions, to the supervisor, to the department director and, ultimately, to the tribal head person.

5. Tribal Council

The tribal council is responsible for authorizing the establishment of programs operated by the tribal government, for providing resources for the operation of the programs and for ensuring that program continues to address the purposes or goals for which it was established. Tribal councils need not be involved in the daily operation of the tribe's social services programs; they do need to know whether the program is providing services consistent with tribal council policy and whether it is achieving the goals adopted by the tribal council.

The supervisor should have a clear understanding of the procedures for making program reports to the tribal council. The program reports should be brief and the point clear on whether or not the program is achieving its goals.

Finally, the supervisor always should remember that tribal council members are elected officials and they have a responsibility to their constituents. Tribal council members will hear from their constituents if there are any complaints about social services. The supervisor should be willing to listen to complaints and indicate his or her willingness to investigate and report back to the council, through the tribal head person.

D. SERVICE COORDINATION

Important elements of effective child welfare casework are good working relationships with all of the programs in the child welfare system. The Community Resource Inventory described above will provide basic information about all of the programs and the resources included in the child welfare system.

Even if the supervisor has no opportunity to conduct a formal inventory, it is important, at least, to conduct an informal inventory.

The various programs involved in child welfare services may not view themselves as parts of a system. One of the tasks of service coordination is to get the pieces working together.

APPENDIX A

DEVELOPING CHILD WELFARE STANDARDS

(Note: One task of a tribal child welfare agency is to ensure that the tribal government has a child welfare code and standards for out-of-home care. If the tribe does not have a code and standards, then the agency should seek documents from tribes and the state government. These documents can serve as guides only. Codification and standards, ideally, should reflect that tribe's philosophy about children).

I. Tribal Child Welfare Code

The child welfare code should include:

A. Child Custody Procedures

B. Guardianship Arrangements with Relatives

II. Tribal Child Welfare Standards

The tribal child welfare standards should include:

A. Foster Care Recruitment, Licensing and Evaluation

B. Group Home Licensing and OversiteC. Adoption Recruitment

APPENDIX B

Sample Questions for a Community Resource Survey

1. What services does your program provide?
2. Who do you serve or what is your service population?
3. Does your program have specific eligibility criteria?

    Age limits
    Income levels
    Geographic criteria

4. If we (child welfare programs) make a referral to your program, to whom do we make the referral?
5. What is the staffing of your program?
6. What are your views regarding the child welfare needs in the community?
7. How can our program best address those needs?
8. Do you have any other comments that you would like to make?

APPENDIX C

HOW TO MAKE A REFERRAL

The following basic steps were developed by Ms. Ruth Houghton, to train caseworkers in making service referrals. (Unpublished, used by permission)

1. Interview the person requesting service.

2. Decide with you client what service he or she really needs.

3. Select the agency you believe is the most appropriate one to provide the service.

4. Telephone the agency to make sure that:

   a. It can provide the service you need
   b. Your client is eligible for the service
   c. The receiving agency has the time available to perform the service for your client

5. Inform the receiving agency that you will be referring your client for service; make an appointment for your client with the receiving agency.

6. Make sure that your client will have transportation and that he/she understands the arrangements made; give your client a memo with the agency location, the date and time of the appointment and the name of the person he is to ask for at the receiving agency.

7. Write a referral form or letter to the receiving agency clearly stating necessary identifying information about your client and a listing of the services for which your client is being referred.

8. Give the referral letter to your client to take to the receiving agency.

9. If your client is incapacitated, inarticulate or unable to speak English, send an aide or volunteer to accompany him or her to the appointment, or take the client yourself.

10. After the receiving agency should have given the service, follow up with the agency to be sure that the service was performed; then, confirm with your client that he or she has received the services.

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UNIT VII

Healing and Wellness

Prepared By:
Joseph Enos
Marilyn Francis, BSW

TABLE OF CONTENTS

Course Outline 449

Training Outline 451

I. **Nohwii Chaghashe**
Gaa da gontdzaa 452
(Protect Our Apache Children)

II. **Community Context** 454
Athabascan Speaking People 457
Historical Significance 458
White Mountain Apache Clan System 459
Comparative Belief 460
Spiritual 461
White Mountain Apache Belief 462
Circle of Life 463
Child Rearing 464
Child Abuse and Neglect 465
Healing for Child Abuse and Neglect 466
Elderly 467
Death and Dying 468
Communication 469

III. **Talking Circle** 470
Spiritual Facilitation 471
Listening and Feedback 473
Test for Healing and Wellness 474

IV. **References** 475

CHILD PROTECTIVE SERVICES TRAINING COURSE OUTLINE

UNIT VII Healing and Wellness
BUILDING STRONG APACHE CHILDREN

COURSE LENGTH: 6 HOURS

COURSE DESCRIPTION:

This unit will examine the importance of healing in working with children and families involved in the Child Protective System within the White Mountain Apache Community. Healing cannot be separated from culture, disorders affect the mind, spirit, and body. Wellness is balance and harmony - "Knowing who I am". Harmony is not perfection, utopia, or euphoria, but an attitude toward life that creates peace.

COURSE OBJECTIVES:

1. Participants will identify values that are inherent in building strong Apache children with self and tribal esteem for protection form the major types of maltreatment within the total community.
2. Participants will be taught how to involve nuclear, extended, and no-blood related kinship systems in the healing process using their knowledge of Apache history, story telling, songs, dances, symbols, and ceremonies.
3. Participants will identify and design prevention, intervention, healing programs based on Apache spiritual belief systems that span the cultural continuum.
4. Participants will list the four bases that are the foundation of a positive self-image thereby empowering children, family, and communities.

KEY CONCEPTS:

Spiritual Healing, Self-Identity, Self-Esteem, Utopia, Euphoria, Nuclear Family, Extended Family, Non-Blood Related Kinship bonds, Empowerment, Oppression, Healing, Apache Values, Ceremony, Symbols, Cultural Continuum, Harmony.

POSSIBLE DISCUSSION TOPICS:

1. Participants will be given an Apache story which will require that they identify values that affirm self and tribal esteem.
2. Participants will role play various family circumstances that impede healthy family functioning and healing.
3. Participants, through small group exercise, will design prevention activities that affirm healing and wellness for children, families, and the community.
4. Through discussion of a vignette, participants will identify four basic values that underlie self-esteem and apply those when working with children and families who are involved with White Mountain Apache CPS System.

MATERIALS:

White Mountain Apache Creation Stories
Value Clarification Exercises
White Mountain Apache Songs, Dances, Symbols, Ceremony
White Mountain Apache Family Situation Vignettes

HEALING AND WELLNESS
TRAINING OUTLINE

I. White Mountain Apache Culture (Marilyn Francis)

9am - 12noon

1. History
2. Significance
3. Clan System
4. White Mountain Apache beliefs (religion)
5. Circle of Life - Pregnancy, birth, infancy, childhood, puberty, adult, elderly, ending of life. (6 stages of life)

II. Talking Circle (Joe Enos)

1pm - 3:30pm

1. Participants will have the freedom to express their own belief system.
2. This involves an experiential exercise.

III. Exercises (Joe Enos)

3:30pm - 4:45pm

1. Ending blessing ceremony.

Nohwii Chagháshé baa da gontdzaa

(Protect our Apache Children)

As Indian people we are beginning to rediscover ourselves. We want to learn about our migrations, our past, our history.

There are some of us who have been lost in drugs and alcohol because we did not feel good about ourselves. We were born and raised in violent, dysfunctional homes and environments, in a sense, programmed for failure. But after having gone through a process of recovery either through the Alcoholics Anonymous, or other programs, we became reborn.

So not only do we want to grow as individuals, as persons of worth, but we also want to revive and nurture our spirits. We want to reclaim all our God-given gifts. We want to become whole people.

Our lives become a quest for truth. We began to search for the truth in our traditions, legends, ceremonies and sacred ways. We began to be aware and have respect for nature and all creation.

The most logical place to start this search is in our creation truth. Every Indian group believes in an origin, a genesis. We each have an origin of truth. We believe in a Creator.

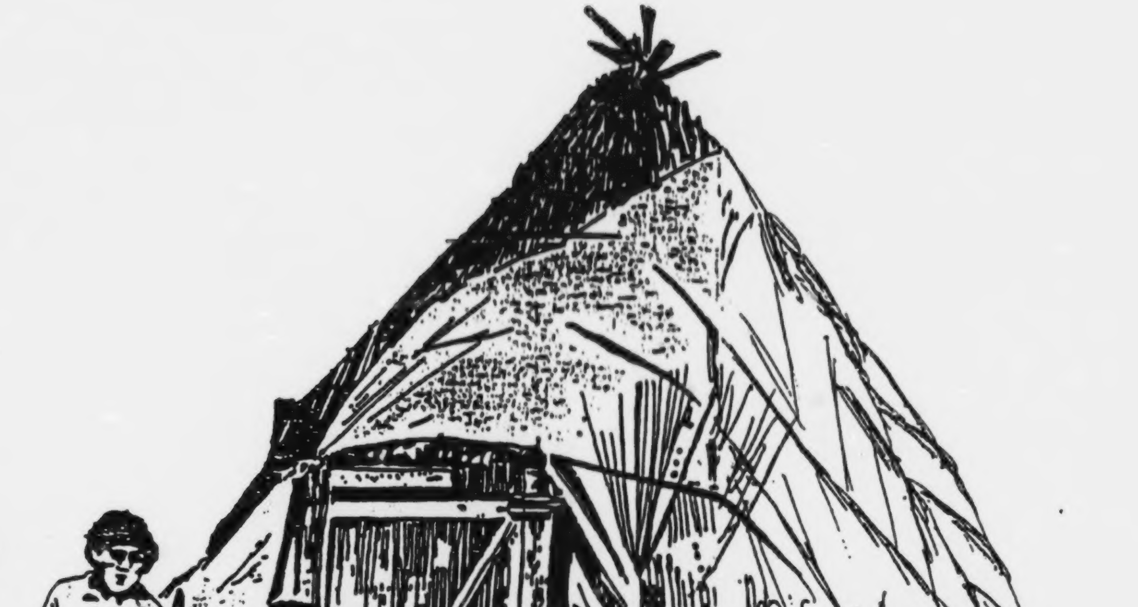
As we recover and grow as individuals we also want to help others, especially other tribal people. We want to let them know that we are a valid, viable, spiritual people with rights. We are a gifted people. that we can look to the past, connect with it and grow. Once we do that, we can begin to understand our reason for being here on the the Mother Earth. But we have to want to connect.

There is so much in our past. Our ways are very sacred. Our songs are powerful. Our individual tribal languages are very visual, natural and alive.

If we want to survive as a people we need to look to the past. We need to grow from the past. We need to remember and honor our ancestors because they have never forgotten us, and they honor us each day.

We can regain our sense of purpose and vision. There is a plan for all creation and we are part of it.

Joseph M. Enos



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COMMUNITY CONTEXT

Healing cannot be separated from culture as it impacts the mind, spirit, and body - knowing "who I am" is central to all of us. Wellness is balance and harmony; therefore, knowing "who I am" is essential to achieving the harmony which is central to the White Mountain Apache people. In order to better understand the White Mountain Apache Tribal community, it is important to again restate some essential elements that make up the history of this unique people. During this session I will briefly address the significant historical events that have shaped the White Mountain Apache community.

This session is intended to be an overview of the culture by describing the White Mountain Apache clan system and its importance in directing the social interaction among community members. Having knowledge of ones clan provides a tribal member with a sense of belonging and attachment which is important to maintain the rich heritage associated with being a member of the White Mountain Apache Tribe. The clan system is important in that it identifies values which fortify and build the self esteem of Apache children. This knowledge and use of the clan system is important as it impacts the selection of marital partners and the relationship between families. I recognise that Apaches exist in a cultural continuum; that is to say, some Apaches know to which clan they belong and the meaning of this natural network, while others have not learned about their clan membership or origins. The clan system illustrates a traditional way of helping to maintain balance and wellness within the community.

To understand what wellness signifies to a member of the White Mountain Apache Tribe it is important to examine the comparative belief system of health. The Western concept of medicine separates spirit, mind, and body and there are specialists who address each of these separate domains. This places emphasis on dealing with people in separate domains. The traditional Indian concept of health combines the spiritual, physical, and mental. The flora, fauna, and elements of the earth, sun, moon, stars and sky, all are seen as viable mediums to help a person become balanced. Not all Apaches hold to this definition but many of community members still see the world through this lens. Unwellness is perceived as an imbalance of spirit, mind and body. It is therefore believed that powers in the universe must be respected in order to avoid mental or physical illness or even death. According to the traditional concept of wellness there are two classifications of things that make one ill. 1) Violating a taboo - this means that you have broken a very sacred and powerful proscription by the community. There can be light or serious consequences for an individual. 2) Practicing witchcraft - which is the wrong use of power and can have negative effects on the person who is practicing it as well as the person who is being practiced upon. It is important to recognize that some community members hold this belief; therefore, working within that framework is essential to try to restore balance.

See the outline on the White Mountain Apache belief system on page which further describes the traditional Apache way and Apache symbols.

The circle is the most representative symbol used to illustrate the continuity of life and the achievement of harmony and balance. Life is seen as a circle that begins prior to being born and continues until death. This can be seen in how pregnancy is dealt with by both mothers and fathers and even to the extent of designating who can be present during the birth of a child. The understanding of these traditional viewpoints is essential in order to convey respect for children and adults. The attitudes and values regarding child rearing for example, include that a child is to be respected and one does not push, slap, yell at or harshly punish them. This also includes refraining from demeaning a child because of the belief that this might kill the child's spirit. In the traditional viewpoint everything has a spirit which is to be honored. This is similar to the Christian belief in the existence of a soul. This therefore requires that careful and loving guidance be provided to children.

The rearing of children is done by relatives, especially grandparents, who play a major role in teaching the traditional ways. The community therefore plays a major role in collectively rearing the children and it is not left to be done solely by the nuclear family members. Children are taught not to be lazy and are made familiar with taboos which exist in their community so that they can fit within the context of their culture. Today, child rearing practices are also impacted by television, movies, inappropriate language, and other beliefs that originate outside of the White Mountain Apache belief system. This sometimes causes some confusion in that the beliefs of families are not always integrated by their children due to the many messages that children receive through the media. Yet the importance of family is evident in the spiritual blessings for families in the spring and fall. Despite this, child abuse and neglect does occur.

There exist traditional beliefs that preclude child abuse from occuring. Yet there are regional differences within the White Mountain Apache reservation that explain this behavior. For example, some people will say, "that's just the way they are", in reference to one geographical area. Or they may simply say, "stay away from them", or "you can't change them", to explain occurrences of this behavior. A worker who has to address child abuse and neglect has to become informed about these regional differences. For example, in some regions, incest is perceived to be associated with witchcraft. Therefore the worker must make an assessment and understand the level of acculturation of the family in order to best know how to intervene.

Depending on the level of acculturation, within the framework of the White Mountain Apache belief system, the victim is provided emotional support and/or a healing ceremony to address the problems of depression, panic attack and anxiety reactions. The perpetrator must apologize to the victim and take responsibility for their actions and may also be required to participate in a cleansing ceremony and to undergo counseling. This allows for a holistic approach to working with this difficult situation and encourages the participation of the elderly in matters affecting children.

The Apache culture not only provides for work with the perpetrator but it also reinforces the importance of the role that the elderly play within this community. You cannot work in this community without an appreciation of their role as they are seen as wise ones who have survived hardships and who are respected because of their cultural link for grandchildren. They carry forth the tradition of who can physically touch, i.e., father to daughter, mother to son. Knowledge of the importance of the elderly provides another method for transferring that key value of respect as they symbolize an achievement of longevity. A long life is perceived to reflect ones having lived a life of harmony and balance. There are other contributions provided by the elderly such as an appreciation of the work ethic, humility, and positive ways of communicating with their family members.

In summary, understanding what it means to be Apache is an ongoing process which continues throughout the circle of life. If one is to address wellness and an appreciation of harmony and balance it is important to understand some of the White Mountain Apache belief system.

ATHABASCAN SPEAKING PEOPLES

- Alaska and Canada
- Navajo
- Tonto - Clarkdale, Rimrock
  - Campe Verde, Middle Verde
  - Payson
- White Mountain Apache
- San Carlos Apache
- Old Mexico
- Mescalero Apache
- Jicarilla Apache
- Ft. Sill Apache
- Kiowa Apache

Differences - Tribes
- within Tribes

HISTORICAL SIGNIFICANCE

1400 to 1700	Western Apache moved to eastern central Arizona.
1540	Francisco Vasquez de Coronado
1750 to 1821	Spanish influence Agriculture, horse, raiding and military control.
1821 to 1853	Mexican influence Material Culture: firearms, saddle, playing cards, hacha, melon, sandia, oro, pan, soldado, peso, mansana, guche, cajon.
1853	Gadsen Purchase (Arizona came under control of United States).
1870	Ft. Apache was established.
1874	"REMOVAL PROGRAM" To San Carlos by Dept. of Interior.
1884	Several groups of Apaches to FORT APACHE.
1897	Separation of White Mountain and San Carlos reservation Act of Congress.
1912	Arizona became a state.
1934	Indian Reorganization Act.

WHITE MOUNTAIN APACHE CLAN SYSTEM

EAGLE

Tugain
Iyaa Ai ye
Te Na dolzhage
Tse Ti an
Tudit hile
Dzit Taadn

BEAR

Na go dish gizhn
Tiis Kaadn
Dzii tentin
Dish chiidn
Tiis tentin
Nakai ye
Ndaa tol chin

ROADRUNNER

Bis zaha
Nadots oosin
Ndee Ndeezn

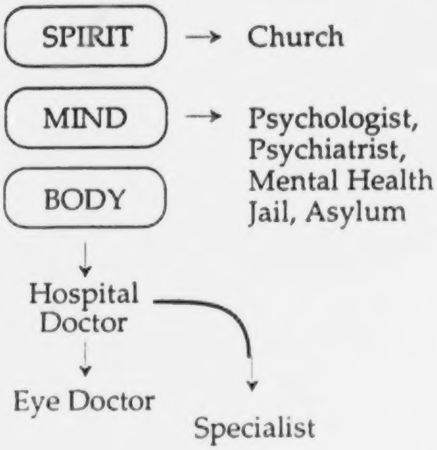
BUTTERFLY

Doole
Nit chi en tin
Dosh doe
Be ilt soon
Tse chi is jine
Tt on kaa da gain

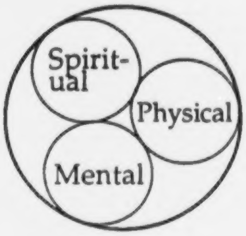
1. Names descriptive - outstanding geographic feature.
2. Matrilineal / Matriaarchal
3. Marriage

COMPARATIVE BELIEF

Western Concept


SPIRIT
Church
MIND
Psychologist,
Psychiatrist,
Mental Health
Jail, Asylum
BODY
Hospital
Doctor
Eye Doctor
Specialist

Traditional Indian Concept


Spirit-
ual
Physical
Mental

- Celestial
- Fauna
- Flora
- Stones
- Spring Water

earth
sun
moon
stars
sky

Wellness:	Balance of spirit, mind, and body.
Unwellness:	Imbalance of spirit, mind, and body.

Powers in the universe must be respected; if not, mental and physical illness, even death can result.

There are two classifications of things that make one ill:
1. Violating a taboo (power). (Light or serious consequences).
2. Witchcraft - wrong use of power.

SPIRITUAL

1. Creative, energizing force of our being.
2. It is what gives us feeling / emotion.
3. Our inner core, conscience, right / wrong, good / bad.
   (Heart, gut feeling, soul).
4. Our claim to immortality.
   "Happy hunting ground"
   "Spirit world"
   "The great beyond"

-Frank Clark, M.D.

WHITE MOUNTAIN APACHE BELIEF

Giver of Life (Spirit without form represented by Sun)

Dragon Slayer

Changing Woman

Son of Water

Holy Spirit

Creation Story - told in winter

Sunrise Dance - symbology, pro-life

Ceremonies: healing, puberty, blessing, legal matters, military, night healing, cars, houses, personal requests.

Respect - A way of life

Four Directions:	East	South	West	North
Colors:	Black	Blue	Yellow	White

Clockwise Direction: Life - Giving

Male: Sun, Sky, East to West.

Female: Earth, Moon, North to South.

Dreams:

Powers: Exist throughout the universe and can be used by man.

Active: Mornings, spring and summer, healing in mornings, do important business in mornings; "be active, don't be lazy"

Passive: Afternoon and night, fall and winter, time to rest, storytelling in winter, certain ceremonies.

Weather: Humidity, winds.

"Thoughts Are Things" (be careful what you ask for).

"What Goes Around, Comes Around"

CIRCLE OF LIFE

PREGNANCY

Mothers:

- respect for self and baby; co-creation.
- think good thoughts.
- do not go to wakes or funerals.
- do not visit sick people.
- do not look at Gaan dancers.
- do not go to healing ceremonies.
- do not look at horror movies, scary pictures, etc.
- do not eat certain foods (inside of cows, rabbit, elk, etc.)
- do not make big plans for baby (necessities).
- take care of self (breathing, eat well, exercise).

Fathers:

- respect for wife and baby.
- think positive thoughts.
- also feel pregnancy (sleepy, tire easily, lazy nausea, craving).
- do not kill animals - spirit energy.
- Failure to Thrive, kish-chish

BIRTH

- men do not go near delivery.
  do not breath in smell of blood.
  do not step on blood.
- umbilical cord - cornfield, cow's hoof, horse's hoof, "trash can."
- rope to tree / hospital delivery room.
- blessing of newborn.
- naming of newborn (descriptive spiritual).
- baby shower after baby is born.
- cow's milk.
- first year of life is important.
- family planning (about two years apart, kish-chish).

CHILD REARING

RESPECT CHILD: Do not push, slap, harshly punish. Do not yell, call names (you might kill the child's spirit).

TEACHING OF CHILDREN: Relatives, especially grandparents, take a major role in teaching traditional ways.

"DO NOT BE LAZY": Children taught at a young age how to cook, clean house, care for siblings, etc.

TALK TO YOUR CHILDREN - HAVE ELDERS TALK TO YOUR CHILDREN.

DISCIPLINE: Relatives at one time, disciplined children. "Don't let them be bossy; they're just kids." Attention to positive behavior; not to negative behavior. Social control (tease, ridicule, etc.) Stories.

TABOOS: Children do not attend wakes, funerals, Gaan dances. Children especially young ones are not to be left alone.

HISTORICAL CHILD PRACTICES: Survival of the fittest.
If twins, weaker one was killed.
Semi-monadic life style.
Enemies.

TODAY: Television, videos, cable, language, Apache beliefs.

EMPHASIS ON FAMILY: Gender Roles: Boys - "If you're a man, cowboy, etc."
Girls - Home, marriage, children.

Spiritual blessings for families in spring and fall.

"He / she got the teaching"

CHILD ABUSE AND NEGLECT

TRADITIONAL BELIEFS:

REGIONAL DIFFERENCES:

"Thats just the way they are."
"Stay away from them."
"You can't change them."

SEXUAL ABUSE:

and incest are easily associated with witchcraft.
"Package deal."
Don't talk about bad things.

HEALING FOR CHILD ABUSE AND NEGLECT

VICTIM
- counseling (depression, panic attacks, anxiety reaction).
- perpetrator to apologize and take responsibility.
- family support.
- healing ceremony.

PERPETRATOR
- To apologize and take responsibility for his / her actions.
- counseling (own abuse in the past).
- family to support and talk to perpetrator to change ways.
- cleansing ceremony.
- there are those who can't change.

ELDERLY

PRAYERS - "White hair and cane."

WISE ONES - Survived hardships.

RESPECTED - Consulted, cultural link for grandchildren.
When nomadic, they chose to be left behind.

TRADITIONAL AND PENTACOSTAL BELIEFS

TOUCH - (Father/Daughter, Mother/Son)

DEPRESSION: "There's no more use for me."

- old age diseases
- nursing homes
- worries about children/grandchildren.
- housing, finances - abuse and/or neglect.

WHEN SERIOUSLY ILL:

- "Have to be at bedside" (family support, expectations, respect, guilt, clan relation). "They come, they stay" - a nurse.
- Code "they know patient isn't going to get well, but they still want full code."
- Pastors, ministers from other churches will visit.

DEATH AND DYING

Each case if different.
(Belief system, localities, clan beliefs).

TABOO:

- don't think about it, don't talk about. (Will, cemetery plot, etc.)
- suicide. "you say it for relatives and not for yourself."

TRADITIONAL:

"His path is no more."
Blessing of body.
Bury within four days.
Take body out through opening in west.
Constant watch over body.
Burial in mornings.
One night wakes.
Do not touch body. (Stiffness.)
"Autopsies" - abuse of body.
Burn all belongings within four days.
Do not mention deceased's name - person is no more.

A PART OF LIFE

"Ripe" - "I'm going back to whoever made me;
I had a good life; I'm ready to go.

COMMUNICATON

RESPECT

- "Teaching in the Apache way."
- Body space.
- Touch (father/daughter, mother/son, siblings).
- Eye contact.
- Feelings (disclosure).
- Body language (congruence).

SILENCES

TIME - Present-time orientation.

VALUES: work, ethic
humility
"Don't be hasty."
verbal responses
actions in talking to people.

BELIEF SYSTEM - TRADITIONAL VS. PENTACOSTAL

Three-dimentional, right brain - "show me" maps, pictures, charts.

HUMOR

TALKING CIRCLE

Indian culture is not something that belongs purely to the past; it is an integral and inseparable part of what Native Americans are today and will become tomorrow.

During the training Mr. Enos used a technique called a Talking Circle as a means of spiritual facilitation. A Talking Circle is a technique that has been used by various plains tribes and he used one that focuses on the Lakota method with elements from his Tohono O'odham tribe. There was the purifying of the room and oneself (smudging) by means of burning sage, sweet grass and cedar, was done in the hollow half of an abalone shell, in order to develop harmony within the group. There is an offering to the Great Spirit using the elements that the Creator has given the indigenous people for worship to remind them of the simplicity and reverence that is found among all tribes. The use of the Four Cardinal Directions is to develop a sense of harmony within the group. Facilitation for speaking was enabled through the use of an Eagle Feather (much like the talking stick/staff) which was passed around, and everyone was given an opportunity to speak or to pass the feather on and not speak (no judgment was made on that). If he or she chooses to speak they may choose any topic without any time constraints. A session may take hours until all the participants are given an opportunity to share, generally, it is better to not to break the circle. The feather is passed clockwise until it returns to the facilitator. At the conclusion of the Talking Circle, there was another blessing by Mr. Enos. All participants were encouraged to leave the circle in peace and to think good or positive thoughts. It is important to note that there was no attempt at discussing what was said in the group, as might be done in other forms of group work. This point is a major distinction which is most important to note. In other words, individuals shared their information, they were accepted and acknowledged as people who have a right to their feelings, a right to their expression of self and were affirmed. There was not an attempt to define what it was that had been said. This positive way of "seeing the world" and the connection between each person and nature is one of the reasons why this technique is so effective. The notion of a Talking Circle and the passing of an object which enables people to speak can be seen in other tribes. For example, the Yurok Tribe of Northern California, has a similar practice to the Lakota tradition. The major difference is that instead of an eagle feather they use a talking stick which is passed and as you receive the stick you are allowed to speak whatever is in your heart. The beauty of a Talking Circle or spiritual facilitation is that it is a non-threatening manner which enables people to participate at whatever level they feel comfortable with in sharing themselves. They will not feel like they are prodded or goaded into having to speak about private matters among people that they may or may not know.

This non-directed form of group participation is a viable tool in working with Native American people.

SPIRITUAL FACILITATION

Spiritual facilitation has been a technique used by Native Americans for centuries. It has utilizes and builds upon the strengths inherent in the connectedness that Native American people have in their cultural, tribal, clan, or family group. The notion that we are all part of a whole and that each person is of equal value and importance is a prevalent core value of all tribes including the White Mountain Apache Tribe. Mr. Joseph Enos, in his presentation on spiritual healing, did an excellent job of using this technique in order to facilitate individual who needed healing by members who attended his training session. He also did a good job of demonstrating techniques that are necessary in order to provide a medium thus allowing for spiritual healing to occur.

It is important to note that one of the key principles of spiritual healing is that one examines oneself by remembering past events. Essential to this rediscovery of oneself is the skill of facilitation by the leader.

What is meant by facilitation is that the person who is leading the spiritual exercise must take the responsibility of insuring that a designated humanistic process occurs within the group. In other words, everyone respects everyone else's views and treats them with dignity. Therefore, the leader acknowledges that there are many different forms of spiritual beliefs and these are expressed in different ways which we respect. Our intention is not to be disrespectful of those beliefs but to work with and around the individual's beliefs in the healing process. This is different and must not be confused with facilitating a therapy session. The leader simply acts as a conduit which allows individual members of the healing session to speak or share their feelings. There is no intent of "spiritual guidance" or leading them towards a therapy. Basically individuals are given the choice of finding their own answers within themselves.

With these ideas in mind, spiritual facilitation has some identifiable points:

1. Spiritual facilitation creates an environment which fosters, nurtures and supports respect, honesty, compassion, wisdom, and humility.

2. It sets and maintains a balanced environment for spiritual cleansing.

3. It fosters an awareness necessary in group members regarding their relationship to others and their relationship to a spiritual higher being.

4. It encourages the process by providing supportive, positive feedback by the facilitator emanating unconditional and non judgemental compassion for all group members.

5. It continually monitors the group process and dynamics, not being responsible for the outcome but allowing each individual member to participate at their own level.

6. It maintains a high standard for building consistent group cohesiveness. This is done through the notion of respect.

7. Facilitator carefully advises all participants to maintain confidentiality regarding what has occurred and is said in the group.

8. It also recognizes that silence within the group exists and that sometimes it can be seen as confusion among other group members. In actuality, that may simply mean that an individual is growing or is involved in their own healing process.

9. Risk taking is facilitated by the creation of a safe environment to allow members to share their experiences.

10. The spiritual facilitator is aware of feelings, values, and the dynamics within the group and uses this awareness to enhance the involvement of group members. Facilitator moves group members from "thinking responses" to that of an "emotional" or "feeling level".

Ideas to be aware of in spiritual facilitation:

1. You begin with subtleties; that is you are attentive to the fact that people do not begin discussing personal situations unless they begin with a smaller life problem and then expand upon that. You begin with what the person has to share and honor that.

2. By the environment that you create, you allow participants to examine their own behavior in life and some of their causes and/or consequences.

3. It is important to respect the person and acknowledge where they are in their life and help them in returning to their feelings regarding any person, place or thing that is causing them emotional disharmony.

4. Allow for anger and hostility to come out and be aware that if the person is not ready to disclose, respect that as a **free choice** . It is important to understand that sometimes when someone shows

anger or hostility, it may be a reflection that their values have been challenged and that they are reexamining them.

This is very essential to this facilitation as it treats each member as a spiritual entity. Therefore, protect the group environment and allow trust to grow. When you are facilitating a spiritual group, let everyone know initially, that they are not made only of the emotions and values they feel, they are also human beings who have the potential to change. This requires a person to get in touch with their values and feelings to facilitate those changes.

In conducting a spiritual cleansing group pay attention to the seating arrangement in the sense that a circle is the most commonly used form in doing a spiritual healing session. It allows people to face each other, to be of equal distance from each other and does not set someone as the leader by the virtual physical position that they hold in the group. Essential to that environment is also the notion that there is spiritual prayer/meditation before, during and after the group.

LISTENING AND FEEDBACK

In spiritual facilitation it is important to understand that one does more than simply listen. It means that one is using active listening and is constantly reading body language while using intuition which is available to all of us human beings. This skill in facilitating fosters an interconnection among members. In others words, one is listening beyond the words but is constantly identifying feelings; in clarifying.intent as to why someone is saying something. One listens to understand, and not to react. Be patient, listen to your intuition as a facilitator; to that which is your own inner voice that can be called intuition.

In Native American spiritual blessing, it is important to understand that one does not speak and give direct feedback to the person in the circle. What one does is provide feedback when appropriate, when asked by one of the persons who has spoken. Feedback needs to be descriptive rather than judgmental. The techniques needed in giving feedback include reflecting, empathizing, paraphrasing, focusing, clarifying, supporting.

POST TEST FOR HEALING AND WELLNESS

1. List the cultural implications of child abuse and neglect.
2. Describe some ways of helping people who are in the abuse cycle.
3. List some positive child parenting skills.
4. How can positive mental health be maintained for professionals who work with child abuse and neglect.
5. How can co-workers work cooperatively for the benefit of the clients.

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UNIT VIII

Classroom Guidelines

PRINCIPLES OF ADULT LEARNING

1. Adults must *want* to learn.

2. Adults will learn only what they feel a need to learn.

3. The need to learn can be *developed*.

4. Adults learn by *doing*.

5. *Immediate* and *repeated* opportunities to use newly learned skills and knowledge reinforce learning in adults.

6. Adult learning should center on *problems* - and the problems should be *realistic*.

7. *Experience* affects adult learning.

8. Adults must have every opportunity to *interrupt*, *ask questions* and *argue*.

9. Adults learn best in an *informal* environment.

10. A *variety* of methods should be used in teaching adults.

Butterflies can be tamed...

The film *Speaking to One or One Thousand* produced by McGraw Hill/Toastmasters International is one of the better films on the market for helping trainers improve their speaking skills. It makes a number of very important points including:

Everyone is afraid of standing up in front of a group and speaking. After fifteen years I still get the same physical stress reaction associated with this "threatening" activity. We can't get rid of it, but we can manage it.

"This is me." Be authentic, every lecture should be delivered as naturally as possible. How you normally interact with people at a party, a chance encounter on the street, etc. is the way you should act in front of a group. Remember, most people feel the way you do about public speaking and will be pulling for you to succeed.

Nonverbal communication is the critical message when speaking in front of groups. Fifty-five percent of what others understand about what you are trying to say comes from this message. Clothes should be "appropriate" to you audience. Hands should be used for "natural well-times gestures" and body posture generally should convey your intended/felt communication. Eye contact should be maintained for four to five seconds with each person before moving on to another member of your group.

Your words should be natural to you, but also appropriate to your group. Jargon should be avoided and effort should be made not to talk down to or over the heads of your group.

Confidence comes form participation. Every effort should be made to get as much practice as possible. Use of audio tape recorders and video-based workshops should be accessed if possible.

Tips...

In addition to these excellent points, here are some additional tips I would offer after watching other trainers and experimenting with some of them myself over the years.

For handling butterflies in the stomach, sweaty palms, quivery voice, headache, and other assorted signs of stress reaction, I recommend the following ideas:

- The six second quieting response.

Take two deep breaths--inhale slowly through your nose, hold, exhale slowly through your mouth. As you exhale, attend to relaxing your jaw and neck muscles. Do this twice right before you start your session or presentation, or at any time during the session you feel tense or nervous. This helps you get more oxygen into your system and to your brain, good air into your lungs, and relaxes neck and jaw muscles that cause headaches.

- Try glad handing.

Before you start a session get out into your group and introduce yourself to at least three or four people. Find out what their names are, what their issues are, where they are from, etc. This gives you information about your group that you can comment on at the start of the session to help you get started. It is really good for hostile groups when you say for example, "Before the session I was talking to Kim and she shared her anger at the new policy...I can really appreciate that feeling..." It also helps you with your stress as well. You are most fearful of failing at the start of a session. Here is the moment you want to be able to look out into the audience and find those "kind eyeballs" in the three or four people you have already started to develop a relationship with. If you do it correctly they will cheer you on.

- Share how you are feeling.

You get up, your ready to go, and you can't even remember your own name, let alone what you were going to talk about. Stop and tell the group how your feeling. Take a deep breath and start again. Do it once, do it early, and don't do it again. You don't want the group to leave with their only memory being that you were nervous throughout the session. Here is the most important thing you can remember: You are the only one who knows how nervous you are. On the outside you always look less nervous then you are on the inside.

- Don't rust.

Yes her it comes again. Practice, practice, practice. If I don't train for a month or two, even after fifteen years of practice, I still feel may edge wearing off and rust setting in.

Here are some ideas to help strengthen the verbal message of your presentation:

- Talk in twenty minute **manageable chunks** of time.

Put the most important or primary information into the first ten minutes of your presentation. Then let your group know you have about ten minutes left. This alerts them to refocus. Give them the less important or supportive information during this time. This keeps your lectures to twenty minute bundles of information. If you have more points than can be introduced in twenty minutes, cut the less important data.

This is a goal. Many times you will have to violate it, but strive to keep it and your adult listeners will be forever grateful (and attentive). If that's not possible, change the "texture" of the session before giving out further information. By changing the texture I mean change speakers, go to a question and answer period, or some other involvement activity, replace a portion of your lecture with a film, etc.

The attention span for adults peaks somewhere around 18 - 22 years of age. We like to think that this isn't true. What is true is that an adult's mind can only absorb as much as the seat can stand.

- Use effective presentation strategies.

The Introduction. The Introduction often includes a shared incentive statement. This statement includes a description of your group's need, and a general statement of benefit. Remember the WIIFM statements? (Tell them what your going to tell them).

The Conclusion. The Conclusion has a review of the benefits or solutions introduced, and a request for commitment, action, etc. that helps them meet their work objectives. (Tell them what you told them).

- Use 5x7 index cards for your notes.

List the key words or phrases in order of their presentation. Print in large letters so you can spot your place on the card at a glance. Put only one phrase or word on a line if possible. Pause as needed to refresh your memory and find where you are at in your presentation.

By using key words and phrases you will not fall into the trap of reading your material. The 5x7 card is large enough to hold a fair amount of material, at the same time it is small enough that it does not become a "barrier" between you and your group.

- Tie a verbal message to the para-verbal message.

This is the way you say the words. *Tone, inflection, volume, and rapidity of speech* are all important to how your message is received. Since each person's speaking habits are unique it is difficult to provide hard rules to follow. The only suggestions I can make are these:

* Men need to attend primarily to tone and inflection. Most often they need to vary their inflection more.

* Women need to attend primarily to volume and how rapidly they speak. Even when giving eye contact to someone in the front of a group, the volume should be loud enough for the person in the back to hear.

There are of course exceptions to these statements for both men and women. A tape recorder is an excellent tool for checking your current speech patterns. A colleague in the back of the room ready to signal you to speed up, slow down, raise your volume or lower it is also helpful. This is nervous. **(Review handout number 5 for additional tips for enhancing the emotional hook of your presentations).**

- One last look at nonverbal behaviors:

The movie I mentioned, *Speaking to One or One Thousand,* says that you should use "natural and well-times gestures..." as a way of describing what you should do with your hands. That's good advice, except it doesn't answer the question for you when you are nervous.

Here is what I do to start a session. I grab a magic marker and hold it in my hands. Markers have lots of uses besides marking up flip chart paper. Giving your hands something to do is one of the most important. I'll pass is back and forth and also use it as an extension of my hand. This gives my hands something to do until the begin to feel more natural. It also helps keep them above my waist. Keeping your hands above your waist keeps them out of your pockets. Hands in the pockets for most people "signals" nervousness at the same time this posture eliminates your most effective communication tools - your hands.

- Interpersonal distance.

Generally in any culture including ours, different interpersonal distances demonstrate different relationships we have with others. For a trainer, 3-5 feet seems to be the best distance to be from your group. This is called the "social" zone.

If possible, movement throughout the room during a session will give everyone a chance to share in this distance. If that's not possible because of the size or configuration of your group, at least maintain this distance with the front of the group. You invade a person's "intimate" zone if you are too close, too far away causes you to have increased difficulty communicating to people in your group because you are in the "public" zone.

You should *always* get rid of the podiums, tables, large pads of paper with your notes on them, etc. These are barriers that increase the "perceived" social distance. Trainers I train take their second blood oath at this time. They *swear* never to use a podium or sit behind a table. Once they get used to the idea, they find it much easier to move and relate to large groups of people.

We have talked a lot about our behavior and how to be more effective. We also need to understand the behavior of our group better as well. If yawns, droopy eyelids and the like are normal for adults who are being talked too, then they are not necessarily the sign that you are in trouble. What is?

- White Outs.

This participant behavior says you are in trouble. A White Out occurs when people role their eyes upwards at the point you say that you have just a few more points to make. It usually is accompanied by a sigh and "Oh god!" If that occurs, you know it is time to cut and run to the next activity!

The medium is not the message...

I said earlier that it is estimated that if people see as well as hear information, their retention will go up to as much as 50%. This is one reason to use visual aids along with your presentations. The use of media is one of those things every trainer knows about, but often uses inappropriately. Like everything else related to training, there should be a conscious objective for its use.

I want to spend some time in this area, exploring what those objectives are. Beyond this I think use of media is a skill-based issue and requires that you do some "hands-on" work with the different kinds of media equipment available.

I think one of the biggest problems trainers face is their own "fear: of the equipment. Let me leave you with a little piece of philosophy shared with me by a trainer and friend of mine, Sam Cannon. When I was nervous about using a piece of equipment for fear of breaking it, he used to say to me:

"Use it. If it jams, force it. If it breaks, it deserved it...".

I've lived by that philosophy for years now. What has happened is that I've learned a lot about different types of AV equipment (and broken very little of it in the process).

"Put the tape on first" and other amazing insights...

Let's look at some of the basic types of media trainers have available to them, form the point of view of purpose. What you want the media to do, should be the basis for selection.

- Overhead Projection

Its objective is to *Record data* taken from the group or *focus the group's attention* on material prepared ahead of time. Use with large groups. The biggest problem with this type of media is that is is hot, noisy, heavy and the chance of the bulb burning out goes up in the direct relation to the distance you are from your spare.

- Flip chart

Same objective as an overhead, *record data* or *focus the group's attention*. Use with small groups where size of visual is not important. I use this whenever possible because the bulb never burns out.

- Poster

Provides secondary *support* for other methods. People take "mental breaks" all the time in training sessions. Give them something to look at related to the issues under discussion and they will repeatedly review material throughout the session. The minute a flip chart sheet leaves the chart and lands on the wall it becomes a "poster".

- Handouts

They should have *usability in the session* in the form of a quiz, background material in a case study, etc.; or they have usability back at the work site in the form of a desk aid, checklist to job memory, etc. Handouts diffuse the attention of a group. Be wary of handing out material like this at the beginning of a lecture. If you do, give people a chance to review it, than direct their attention back to you using a flipchart or overhead.

The key again is *usability*. Most handouts given out end up in the "C" drawer. You know, the drawer you don't "C" into until it's time to move and you're throwing away all your "junk".

- Films and Videotapes

These should be used to replace a lecture if they will enhance what you normally would say, or you want to change the "texture" of the session. Remember that these forms of media have the same effect on your group as a lecture, especially passive posture and decreased alertness. Use films with large groups and video tapes with small groups unless you have big screen or multiple video projection.

- Audio and videotapes

These make excellent *discussion starters* for small and large group discussions if you are using prepared tapes, or can be use to *capture behavior*, both verbal (audio) and nonverbal (video).

(Review handouts numbered 6 and 7 at this time).

I call the dilemma we are continually faced with when preparing media the "design dilemma". It centers on how simple or how complete our media aids should be. If put on a continuum from simple to complete we can say that, for the most part, handouts, films, videotapes and audio tapes fall into the "complete" end of the continuum, while posters, flip charts and overheads fall into the "simple" end.

Posters, flip charts and overheads should never give a complete message. They should be tied into a lecture or some other method, that taken together, give a complete message. Films, videotapes and audiotapes can offer a more complete message, but should never stand alone either. They like lecture, should be processed by your group using some form of involvement activity to assure retention and deeper understanding.

Notes on the construction of visuals: When writing on a flip chart it is best to print, using all upper case lettering. If you are like me, your writing is atrocious and for left-handers tends to slide down off the page as we write.

If you're doing prepared flip chart or posters consider typing what you want onto a sheet of paper. Make an overhead out of it and project it onto the paper or other material you are using. Trace the image. when you are done you will have a very neat, clean poster.

If you're using a typewriter or word processor when preparing overheads use type that is at least 1/4 inch tall and use all caps. You can now get overhead material that runs through a photocopier like regular paper for making you overheads.

One last, and perhaps most important, insight from working with media. This has to do with how you get that very large and hard to manage flip chart paper off the stand and on the wall while looking cool and professional - a very hard thing to do. I spent years trying to figure this out. The answer came to me only a short time ago.

Most of you probably figured this out already. The answer? *Put the tape on the flip chart at the top left and right hand corners just below the perforation first, then pull the paper off.* It's now ready to put on the wall. Great! I learned this watching a trainer like most of what I've written about.

Look at your watch, look at the person and grin...

Now let's turn to the issue of *Problem Participants.* Whether you're presenting a lecture, engaging in a question-and-answer period after a lecture or managing an involvement activity, there are times when members of your group cause disruptions that can seriously damage the chances of your group learning all they can.

Remember however, every problem participant is also a needed participant. What differentiates problem status from needed status is the situation. For example, an overly talkative person is just what the trainer wants during the deadly silence following a trainer's question.

The challenge in dealing with a problem participant is to keep control of the group without mentally or psychologically losing the problem person by embarrassing him or her.

Don Kirkpatrick has done a nice job of identifying why problem participants act the way they do, and some excellent tips on how to work with them at the same time you keep the group on track. Here is what he says about the seven most common kinds of problem people we run into:

- Overly Talkative.

They may be an "eager beaver" or a "show off". They may be exceptionally well-informed and anxious to show it, or just wordy.

- Side Conversation.

It may be related to the subject, or personal. It is distracting to you and others.

- Inarticulate.

This person lacks the ability to put thoughts in proper order, or has the idea but can't convey it. They obviously need help.

- Definitely Wrong.

The person comes up with a comment that is obviously incorrect. Many times this feels like an attack on you because it is in direct opposition to something you said.

- Rambler.

This person talks about everything but the subject and uses far fetched analogies, getting lost along the way.

- Personality Clash.

Two or more persons clash, many times dividing your group into factions. Sometimes you are the person they clash with.

- Won't Talk.

Sometimes they are bored or indifferent, other times they are timid and insecure.

Now let's look at what to do with these types of people **(Fill in handout number 8 as you review these ideas)**.:

- Overly Talkative:

First of all remember, don't be too heavy with them, you might need them later. Slow them down with a difficult question, or interrupt them, note their point, ask what the group or another individual in the group thinks about the point just made.

The choice of whether a question is directed at a specific individual or the group in general should be based on the dominance of the talker's personality. If they have dominated the group, a specific person should be called on, otherwise the talker might jump back in and continue talking.

Be sure to check your own behavior. At the same time you're wondering why this person talks to much, you may be unintentionally encouraging it with your body language. When you call on someone else, be sure to break eye contact and if necessary turn your whole body away from the overly talkative. Remember, with this person or any of the others, let the group handle the person as much as possible.

- Side Conversation:

Don't embarrass them. Our initial urge is to fall back on the old elementary school teacher's trick of asking them to share with the rest of the group what they are talking about "since it must be important..." We all know that this probably isn't true. Why do we say it anyway? This kind of behavior feels rude to us, that's why. Either we are personally slighted or our group is slighted by a side conversation.

Remember our task: get the group back on track, without embarrassing the problem person(s). Here is how to do it. I try the "body heat" approach first. I always make a habit of moving in and around my training groups anyway, so this appears normal. I casually walk over to where the side conversation is going on and stand with my back to the conversation while listening or addressing the rest of the group.

The heat that radiates off my body by "invading" their personal zone causes the conversation to sputter to a halt. If this doesn't work, I try the next option. Call one of them by name. (Do this first, it alerts them that you are talking to them, and gives them a chance to hear the next part). Ask a relatively easy question related to the subject under discussion (or) restate a previous point, and ask them how they feel about the issue. This gives them easy reentry back into the larger group process. Once they have responded , thank them for their participation and move on.

What you have just done is reward what you like, and ignored what you don't like. when in doubt at any time in the session, follow this guideline and you should come out of the situation more satisfied then if you had recognized what you didn't like with a criticism, and had nothing to stroke as a result. One other point, check the physical barriers (other group member's tables, etc.) that isolates the problem group from you and/or the rest of the group.

- Inarticulate:

The worst thing you can do here is try to help the person by saying "What you mean is...". This forces a person already in a difficult position to agree with you even if you are wrong, and leaves them without an opening to continue if they wish too. Secondly try to twist as little as possible what they have said.

Try this instead. Start with a tentative phrase like "I think I heard you say..." or "Let me restate what I think you said..., etc. Follow this with a restatement of what you heard, and finish with "...is that correct?" The person now has had a chance to rethink what they were trying to say, are free to disagree with your interpretation if necessary and can amplify their statement if they choose.

- Definitely Wrong:

Here is another time when we need to handle the situation delicately. We don't want wrong information to go uncorrected, at the same time we don't want to embarrass the person. Start with the non-judgmental statement "I see that you feel that way... how do the rest of you see it?", tied to non-judgmental physical behavior. Turn to the rest of the group and if necessary call on someone you feel will probably give you a more correct statement.

Once you have the correct answer, clearly acknowledge the person with the right answer. Once again, we are rewarding what we like, and ignoring what we don't like. If we are working with opinions rather then objective fact, you can say "I see your point..." and then move on to see how someone else feels about the issue.

- Rambler:

The key here is to wait for a breath, jump in, state "I see your point...", move on to someone else. Again it may be necessary to call someone by name otherwise the rambler may start off again. The problem often times is that an experienced rambler can talk for hours at a time without pausing for a breath. How they do this is beyond modern science's ability to explain. Here is the answer for this type of person. Wait for them to look at you, look at your watch, look back at them, and grin. This gives them a nonverbal "time is up" message, while the grin should be enough to break their train of thought. As they pause go back to the first suggestion for this type... "Good point..." and move on to another person.

- Personality Clash:

Here is a case of two people having a "dualogue" as opposed to a dialogue. At this point they have usually stopped talking to each other and are focused on their own position. Your role is to bring them back to the issue at hand.

Try to emphasize the points they agree on. Usually they are focused on where they disagree. Restate the objectives of the conversation, and bring a third party into the conversation if possible. If necessary ask that personalities be omitted.

- Won't Talk:

This one depends on the reason. If they are bored or indifferent, try to arouse their interest by asking them for their opinion based on their experience. Often times they are knowledgeable in the area under discussion. You may get another expert involved in the learning process as a result.

If on the other hand they are timid or insecure you need to catch them at the point they are most ready to respond. Wait until someone near them is talking. The quiet person is most likely to be actively listening to what the other is saying if they are sitting close to them as opposed to someone from the other side of the room. As the speaker finishes call on the quiet person by mane first, restate what the previous person has said, ask them for their opinion or for additional comments. Once they respond, stroke them for participating.

In either case try these two ideas twice. If they still don't want to participate they can be left alone. Here is a situation where we need to balance our responsibility to bring all the resources available in the room into the learning process with the individual's right to learn in the most comfortable way possible.

Now let's turn to those times when you feel that you are the person under attack. These are the times when you are asked questions in such a way that you are left feeling defensive or manipulated. I call these "rhetorical" questions. They reflect negative feelings masked as a request for additional information. Often times, they are the result of discomfort associated with change that occurs as learnings are integrated into new way of behaving.

They should be seen as opportunities to further the learning process rather than resistance to you as a facilitator or trainer. These questions come in four flavors:

A strong statement including a request for additional information. For example, "I want you to tell us just exactly what you think we should do under these conditions one more time!" Usually accompanied by raised eyebrows, or scowl.

A statement reflecting skepticism regarding information you have offered to the group. For example, "How can you say that?", tied to a frustrated tone of voice.

A statement that reflects misunderstanding of something you have said. This looks a lot like someone who is definitely wrong.

A statement that reflects the person is closed to the opportunities in what you are saying, and focused only on the perceived threats in the statement. For example, "If we follow your advice we will be inundated with paperwork!"

Here are some suggestions on how to respond. First of all, always start by restating in a tentative way, what you think you heard to assure you haven't misinterpreted what was said. Then answer as concisely as possible. Always restate the content of your previous statement, offer additional proof if necessary, and expand on the content if appropriate.

If the person is focused on threats, restate opportunities and ask the rest of the group to state what they see as opportunities in the situation. This gives you another opportunity to use the group to help the person understand the learnings presented. Use assertive talking skills where appropriate. These include:

- Fogging.

State *calmly* that there may be some truth to what they are saying. This allows you to hear what is being said, but gives you leeway to agree or disagree with it. Remember, it's not what you say, it's how you say it in all of the following answers. **Calm** is the key word.

- Negative Assertion.

Here you *calmly* (key word again) admit your fault or error. This will totally dissipate any manipulative "gotcha" statements. It also models openness to hearing about, and learning from mistakes.

- Broken Record.

This type of response is useful when you are confronted by someone who refuses to back off and allow you and the group to move on to a new issue. You *calmly* restate what you know or want over and over again.

For example, "I understand you feel we need to discuss this issue some more, and it may be that it could use some more time (fogging), however we need to cover a lot of ground today so let's move on (broken record)." This ties fogging with broken record if it is restated each time a person continues to interrupt.

These talking skills are intended to demonstrate *open, honest communication.* Learnings can be fully integrated and greater openness and trust developed in your group, by handling manipulative statements by members of your group effectively through the use of these assertive skills. Again, what we are trying to do is keep the group on track without losing the person we are dealing with.

These ways of responding are effective when you are "on the stage" or "guiding from the side".

IMPLICATIONS OF [illegible]RNING THEORY

THERE ARE A NUMBER OF IMPLICATONS CONTAINED IN THE LEARNING THEORY UTILIZED IN THIS PROGRAM THAT FLOW FROM THE IDENTIFIED CHARACTERISTICS OF ADULT LEARNERS. THESE CHARACTERISTICS AND THEIR IMPLICATIONS HAVE BEEN DEVELOPED BY MALCOLM S. KNOWLES.

Characteristics of Adult Learners	Implications for Adult Learning	Implications for trainers
A problem-centered time perspective: Adults tend to think of learning as a way to be more effective in problem-solving today.	• Formal curriculum development needs to be balanced with finding out what the learners need to learn. • Adults need opportunities to apply and try out learning quickly.	Emphasis should be on learners learning rather than on trainers training. Participants should also be involved as much as possible in case studies, role plays, etc. to maximize their learning opportunities.
Self Concept: Adults see themselves as capable of self-direction and desire others to see them the same way. In fact, one definition of maturity is the capacity to be self-directing.	•A climate of trust and respect is helpful in identifying what the learners want and need to learn. • Adults enjoy planning, carrying out and evaluating their own progress toward self-chosen goals.	Trainers recognize learners as adults and treat them accordingly. We are a learning reference, rather than traditional instructors, therefore we tell "how I do it", rather than telling participants what to do.
Readiness-to-Learn: Adult developmental tasks increasingly move toward social and occupational role competence.	• Adults need opportunities to identify the competency requirements of their occupational or social roles. •When a learning opportunity is coordinated with a recognition of the need to know, adults often experience a "teachable moment".	Learning will occur when we help participants with the identification of competency gaps early in our time together. No questions are "stupid", all questions are opportunities for learning. Every session should be filled with opportunities to make mistakes.
Experience: Adults bring a life-time of experience to every learning situation. Adults define who they are in terms of their experience.	• Experiential techniques and discovery of how to learn from these experiences is key to self-actualization. • To reject the adult's experience is to reject the adult.	Since adults are their experience, failure to use the experience of adult learners is equal to rejecting them as people. These trainings become part of our participants' experience and thus, part of them.

DESIGNING VISUALS

1. Use simple terms and relationships.
2. If a visual doesn't explain something better than words, it shouldn't be used.
3. For an overhead and a flipchart, a complete sentence should never be used, only key words or phrases.
4. It should have a minimum number of lines per visual, certainly no more than eight.
5. Only highlights should be shown.
6. On graphs, use a minimum number of curves, never exceeding three.
7. Use a minimum of grid lines.
8. Eliminate supplementary notes.
9. Omit subtitles.
10. *Never* use vertical printing.
11. Remember the Design Dilemma:

Simple____________________(to)____________________Complete

Flipcharts - Overheads - Posters - Handouts - Films and Videotapes

USING EQUIPMENT

1. Make sure it is *all* set up before the event.

2. Make sure it *all* works.

3. Make sure that it has the right lens.

4. Make sure you have the *right* film, slides or videotape.

5. Check the seats (by sitting in them) to make sure that everyone will be able to see.

6. Know where the light switches are and if you will need help with the lights, pick someone ahead of time.

7. After its use, leave the equipment alone until after the entire presentation.

8. Thread the film projector, set the appropriate volume levels for all equipment prior to the event.

9. Prefocus the projector, set the appropriate volume levels for all equipment prior to the event.

10. Have a spare bulb - *and know how to change it* if it becomes necessary.

11. Know how to remove a slide that sticks or a videotape that jams.

12. Remember that some equipment needs time to warm up.

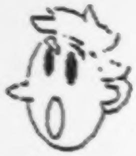
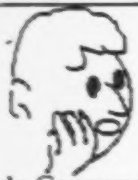
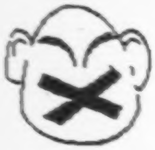
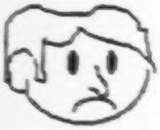
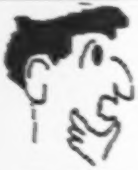
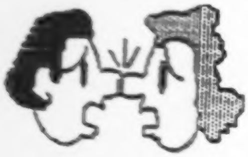
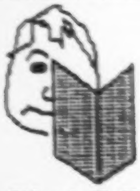
13. *Turn off* the film or overhead projector at the end so that people don't have to look at a dazzling white screen.

14. Remember Sam's advice: *Plan ahead, be prepared, plan ahead, be prepared, plan ahead, be prepared...* if its going to wrong - it will.

Self Exam

HOW HE OR SHE ACTS	WHY	WHAT TO DO
	S/he may be an "eager beaver or a show off." This person may be exceptionally well -informed and anxious to	
Overly Talkative	show it, or just wordy. May be related to the subject. May be personal.	
Side Conversation	Distracts members and you. Lacks ability to put thoughts in proper order. S/he has got the idea but can't convey it.	
Inarticulate	S/he needs help. Member comes up with a comment that is	
Definitely Wrong	obviously incorrect. Talks about everything except the subject. Uses far fetches analogies,	
Rambler	gets lost. Two or more persons clash. Can divide your group	
Personality Clash	into factions. Bored and indifferent. (or)	
Won't Talk	Timid and insecure.	

Self Exam

HOW HE OR SHE ACTS	WHY	WHAT TO DO
 Overly Talkative	S/he may be an "eager beaver or a show off." This person may be exceptionally well -informed and anxious to show it, or just wordy.	
 Side Conversation	May be related to the subject. May be personal. Distracts members and you.	
 Inarticulate	Lacks ability to put thoughts in proper order. S/he has got the idea but can't convey it. S/he needs help.	
 Definitely Wrong	Member comes up with a comment that is obviously incorrect.	
 Rambler	Talks about everything except the subject. Uses far fetches analogies, gets lost.	
 Personality Clash	Two or more persons clash. Can divide your group into factions.	
 Won't Talk	Bored and indifferent. (or) Timid and insecure.	

PLATFORM SKILLS

VOICE CONTROL

ONE OF THE MOST IMPORTANT ASSETS A TRAINER HAS IN REACHING THE TRAINEES IS A CONTROLLED VOICE. YOUR VOICE CONVEYS SINCERITY OR INSINCERITY, ENTHUSIASM OR LACK OF IT, SELF-CONFIDENCE OR FEAR, AND OTHER ATTITUDES AND PERSONALITY TRAITS. PITCH, RATE, FORCE AND CLARITY ARE THE FOUR CHARACTERISTICS AFFECTING THE QUALITY OF YOUR VOICE.

PITCH	VOCAL PITCH IS THE HIGHNESS OR LOWNESS OF THE SOUND OF THE VOICE. WHEN WE SAY, "HE HAS A HIGH VOICE" OR "HIS VOICE IS DEEP" WE ARE DESCRIBING PITCH. VARYING THE PITCH OF YOUR VOICE PREVENTS SPEAKING IN A MONOTONE AND MAKES YOUR VOICE MORE PLEASANT TO YOUR LISTENERS.
RATE	HOW FAST OR HOW SLOW YOU TALK IS YOUR RATE OF SPEECH. VARIETY OF RATE IS IMPORTANT. MAINTAINING A CONSTANT RATE WILL CAUSE YOUR TRAINEES TO BECOME BORED AND TO FOCUS THEIR ATTENTION ON SOMETHING OTHER THAN WHAT YOU ARE SAYING. SOMETIMES YOU KNOW YOU ARE SPEAKING TOO FAST OR TOO SLOW BY THE FACIAL EXPRESSIONS OF YOUR TRAINEES. OFTEN, A TRAINEE WILL ASK YOU TO REPEAT SOMETHING "A LITTLE SLOWER". FOR DIFFICULT MATERIAL, OR TO LEND EMPHASIS TO A POINT, SPEAKING AT A SLOWER THAN USUAL RATE IS APPROPRIATE.
FORCE	IF ALL TRAINEES CAN'T HEAR YOU OR IF YOU "DROWN THEM OUT", THEN THE FORCE OR VOLUME OF YOUR VOICE IS INAPPROPRIATE. THE SIZE OF THE ROOM, NUMBER OF TRAINEES, YOUR DISTANCE FROM THE TRAINEES AND THE LEVEL OF NOISE IN THE IMMEDIATE AREA

ARE SOME OF THE FACTORS WHICH WILL DETERMINE HOW LOUD YOU SHOULD TALK. ADJUST YOUR VOLUME TO THE CONDITIONS SO THAT EVERYONE CAN HEAR YOU.

CLARITY

CLARITY IN SPEECH IS CHARACTERIZED BY SPEAKING DISTINCTLY AND AVOIDING DISTRACTING VERBAL MANNERISMS. IF YOU SLUR YOUR WORDS OR SPEAK OUT OF THE CORNERS OF YOUR MOUTH, YOUR LISTENERS CAN'T ACCURATELY RECEIVE AND INTERPRET WHAT YOU SAY. YOUR TRAINEES MAY HAVE DIFFICULTY UNDERSTANDING YOU IF YOU USE NO MORE LUNG POWER AND LIP MOVEMENTS THAN YOU DO WHEN TALKING WITH ONE PERSON. ALSO, YOUR SPEECH MAY BE MUFFLES OR HESTITANT IF YOU LACK SELF-CONFIDENCE IN YOUR KNOWLEDGE OF THE SUBJECT MATTER OR ARE NERVOUS WHEN SPEAKING TO A GROUP.

A DISTRACTING VERBAL MANNERISM IS THE REPETITIOUS USE OF A WORD, PHRASE, OR SOUND THAT BECOMES ANNOYING TO THE RECEIVER. YOU KNOW HOW DISTRACTING IT IS TO LISTEN TO SOMEONE WHO STARTS EVERY SENTENCE WITH "UH", SAYS "THIS HERE THING", FREQUENTLY CLEARS HIS THROAT, OR SNIFFS THROUGH HIS NOSE. YOU MAY BE UNAWARE OF SUCH MANNERISMS IN YOUR DELIVERY UNLESS YOU LISTEN TO YOUR VOICE ON TAPE OR RECEIVE AN HONEST CRITIQUE. WHEN YOU LEARN ABOUT IT, MAKE A CONSCIENTIOUS AND DETERMINED EFFORT TO AVOID SUCH BEHAVIOR.

A GOOD SPEAKING VOICE IS PLEASANT, FREE FROM DISTRACTING UNPLEASANT CHARACTERISTICS, EASILY HEARD AND CHARACTERIZED BY VARIETY IN PITCH, RATE AND FORCE. DEVELOPING SUCH A VOICE

REQUIRES THE IDENTIFICATION OF THE VOCAL QUALITIES TO BE IMPROVED. CONCENTRATE ON THESE AREAS EVERY TIME YOU PRACTICE THE PRESENTATIONS YOU'LL GIVE DURING THIS COURSE.

BODY LANGUAGE

GESTURES, MOVEMENT FROM ONE PLACE TO ANOTHER, FACIAL EXPRESSIONS AND POSTURE ARE BODY LANGUAGE THAT WILL ENHANCE OR DETRACT FROM YOUR SPEECH. WHEN THESE ACTIONS RESULT FROM A GENUINE DESIRE TO COMMUNICATE THEY WILL SERVE TO COMPLEMENT, REINFORCE AND CLARIFY WHAT YOU SAY WITH YOUR VOICE. BODILY ACTIONS, LIKE THE VOICE, ALSO REFLECT YOUR ATTITUDES AND FEELINGS.

AS A TRAINER YOU WILL USE THE ENTIRE BODY TO COMMUNICATE. IF YOU HAVE PREPARED FOR EACH TRAINING ASSIGNMENT AND ARE INTERESTED IN SELF-CONFICDENCE, SINCERITY AND ENTHUSIASM TO YOUR TRAINEES.

GESTURES AND MOVEMENT

GOOD TRAINERS DO NOT RELY ON RULES FOR GESTURING AND MOVING. RATHER, THEY LET THESE ACTINS OCCUR SPONTANEOUSLY AS REACTIONS TO A GENUINE IMPULSE TO CLARIFY OR EMPHASIZE SUBJECT CONTENT. GESTURES AND MOVEMENTS THAT ARE DELIBERATELY USED FOR THEIR OWN SAKE USUALLY DO NOT CONVINCE THE TRAINEES AND ACTUALLY DETRACT UNOBTRUSIVE, NEVER CALLING ATTENTION TO THEMSELVES.

AS YOU GAIN CONFIDENCE IN SPEAKING TO A GROUP, YOUR GESTURES AND MOVEMENTS WILL BECOME MORE NATURAL AND THUS AID YOU IN COMMUNICATING WITH YOUR TRAINEES.

FACIAL EXPRESSIONS AND POSTURE

YOUR FEELING AND ATTITUES TOWARDS YOURSELF, YOUR TRAINEES AND THE LESSON ARE CONVEYED TO THE TRAINEES BY YOUR FACIAL EXPRESSIONS AND POSTURE. WHETHER YOU ARE BORED, CONFUSED, TENSE, RELAXED, OR ENTHUSIASTIC

YOU WILL UNINTENTIONALLY SHOW THESE FEELINGS BY THE WAY YOU STAND OR MOVE AND THE EXPRESSION ON YOUR FACE. YOU MAY USE GESTURES AND WORDS WHICH INDICATE CONFIDENCE AND ENTHUSIASM, BUT SLUMPED SHOULDERS AND A DEADPAN EXPRESSION WILL CONVEY YOUR REAL FEELINGS.

EYE CONTACT

JUST AS TRAINERS USE BODY LANGUAGE TO COMPLEMENT, REINFORCE AND CLARIFY WHAT IS SAID, SO SHOULD THEY USE EYE CONTACT TO SHOW INTEREST IN THE TRAINEES AND THE SUBJECT MATTER, AS WELL AS SHOWING SINCERITY OF PRESENTATION.

SOME TRAINERS SEEM TO ADDRESS THE CEILING, A SPOT ON THE FLOOR, OR SOME OBJECT OUTSIDE A WINDOW RATHER THAN THEIR TRAINEES. THIS FAILURE TO LOOK TRAINEES IN THE EYE USUALLY INDICATES FEAR OR TIMIDITY. LACK OF DIRECT EYE CONTACT WITH YOUR TRAINEES INDICATES LACK OF INTEREST IN THE SUBJECT AND IN THEM. BY ESTABLISHING DIRECT EYE CONTACT, YOUR TRAINEES FEEL YOU ARE TALKING WITH THEM, NOT SIMPLY AT OR IN FRONT OF THEM.

AS THE TRAINER, YOU BENEFIT FROM DIRECT EYE CONTACT WITH YOUR TRAINEES. YOU SPOT DIFFICULTIES BY CHECKING FOR SIGNS OF DOUBT, DISAGREEMENT, CONFUSION, BOREDOM OR OTHER REASONS. THIS PROVIDES THE FEEDBACK FOR ADJUSTMENTS IN YOUR PRESENTATION TO REGAIN THE TRAINEES' ATTENTION AND CONFIDENCE.

OF COURSE YOU CANNOT LOOK DIRECTLY AT ALL TRAINEES AT THE SAME TIME. LOOK AT EACH ONE AT RANDOM FOR A FEW SECONDS: IN THIS WAY YOU CONTINUALLY MAINTAIN EYE CONTACT WITH THE ENTIRE CLASS.

SELF-CONFIDENCE

THROUGH THE SKILLFUL USE OF YOUR VOICE AND BODY LANGUAGE YOU CAN PROJECT YOUR IDEAS TO YOUR LISTENERS, BUT CAN CONVINCE YOUR TRAINEES OF THE IMPORTANCE AND RELIABILITY OF YOUR MESSAGE? THE TRAINER'S SELD-CONFIDENCE IS SHOWN THROUGH THE EFFECTIVE USE OF GESTURES, FACIAL EXPRESSION, POSTURE, RATE OF SPEECH AND EYE CONTACT.

NERVOUSNESS IS OFTEN CALLED THE ENEMY OF CONFIDENCE. CONTROLLED NERVOUSNESS IS HELPFUL BECAUSE IT QUICKENS THE TRAINER'S REACTIONS AND THINKING, BUT UNCONTROLLED NERVOUSNESS WILL INTERFERE WITHTHE TRAINER'S EFFECTIVENESS AS WELL AS PRESENTATION. A TRAINER MUST THEREFORE STRIVE TO CONTROL OUTWARD SIGNS OF FEAR (STAGE FRIGHT) AND DISCOMFORT. THERE ARE FOUR WAYS OF PROMOTING SELF-CONFIDENCE.

THOROUGH PREPARATION	ORGANIZE YOUR MATERIAL CLEARLY AND ESTABLISH THE MAIN IDEA FIRMLY IN YOUR MIND. ORGANIZING YOUR IDEAS WILL REDUCE THE FEAR OF FORGETTING. PRACTICE YOUR LECTURE WHILE STANDING SO THAT YOU WILL FEEL MORE AT EASE WHEN YOU FACE YOUR AUDIENCE. TALK FROM NOTES TO PROMPT YOUR THINKING.
PHYSICAL CONTROL	BECAUSE STAGE OR PLATFORM FRIGHT SHOWS ITSELF IN MUSCULAR TENSION, FORCE YOURSELF TO RELAX. ASSUME A COMFORTABLE, RELAXED BUT ATTENTIVE POSTURE. PLAN SOME MINOR PHYSICAL ACTIVITY BEFORE BEGINNING TO SPEAK: ERASE THE CHALKBOARD, RAISE A WINDOW, TAKE A FEW DEEP BREATHS, OR CLENCH YOUR FISTS.
GOOD MENTAL ATTITUDE	FOCUS YOUR ATTENTION ON THE IDEAS YOU ARE PRESENTING RATHER THAN ON YOUR SELF. CONCENTRATE ON THE SUBJECT

AND ITS PRESENTATION AND YOU WILL HAVE LITTLE TIME TO BE AFRAID.

EXPERIENCE

ALL TRAINEES AGREE THAT NERVOUSNESS TENDS TO DISAPPEAR WITH ADDED EXPERIENCE. SEEK OUT EVERY POSSIBLE OPPORTUNITY FOR SPEAKING. PREPARATION, PRACTICE AND TALKING DIRECTLY TO YOUR AUDINECE WILL INCREASE YOUR CONFIDENCE.

TIPS FOR RECEIVING FEEDBACK

1. LISTEN UNDEFENSIVELY.

2. DO NOT INTERRUPT TO DEFEND OR EXPLAIN YOUR ACTIONS.

3. ASK THE GIVER FOR BEHAVIORAL SPECIFICS.

4. EVALUATE THE USEFULNESS OF THE FEEDBACK.

SUGGESTIONS FOR GIVING FEEDBACK

1. DESCRIBE THE ACTION IN SPECIFIC BEHAVIORAL TERMS.
2. EXPLAIN THE RESULTS OF THAT BEHAVIOR.
3. IF APPROPRIATE, OFFER SUGGESTIONS FOR IMPROVEMENT. IF THE FEEDBACK IS POSITIVE, GIVE THE RECEIVER TIME TO REVEL IN IT.
4. CONSIDER THE TIMING.

TRAINING COMPETENCIES FROM AN ASTD COMPETENCY STUDY

1. ADULT LEARNING AND UNDERSTANDING...Knowing how adults acquire and use knowledge, skills, attitudes. Understanding individual differences in learning.

2. FEEDBACK SKILL...Communicating opinions, observations and conclusions such that they are understood.

3. GROUP PROCESS SKILL...Influencing groups to both accomplish tasks and fulfill the needs of their members.

4. INDUSTRY UNDERSTANDING...Know the key concepts and variables that define an industry or sector (e.g., critical issues, economic vulnerabilities, measurements, distribution channels, inputs, outputs, information sources).

5. INTELLECTUAL VERSATILITY...Recognizing, exploring and using a broad range of ideas and practices. Thinking logically and creatively without undue influence from personal biases.

6. LIBRARY SKILLS...Gathering information from printed and other recorded sources. Identifying and using information specialists and reference services and aids.

7. ORGANIZATION BEHAVIOR UNDERSTANDING...Seeing organizations as dynamic, political, economic, and social systems which have multiple goals; using this larger perspective as a framework for understanding and influencing events and change.

8. ORGANIZATION UNDERSTANDING...Knowing the strategy, structure, power networks, financial position, systems of a specific organization.

9. PRESENTATION SKILLS...Verbally presenting information such that the intended purpose is achieved.

10. QUESTIONING SKILL...Gathering information from and stimulating insight in individuals and groups through the use of interviews, questionnaires and other probing methods.

11. RELATIONSHIP VERSATILITY...Adjusting behavior in order to establish relationships across a broad range of people and groups.

12. TRAINING AND DEVELOPMENT FIELD UNDERSTANDING...Knowing the technological, social, economic, professional and regulatory issues in the field; understanding the role T&D plays in helping individuals learn for current and future jobs.

13. TRAINING AND DEVELOPMENT TECHNIQUES UNDERSTANDING... Knowing the techniques and methods used in training, understanding their appropriate uses.

WHY ADULTS SEEK OUT A STRUCTURED LEARNING EXPERIENCE

1. ADULTS SEEK OUT LEARNING EXPERIENCES IN ORDER TO COPE WITH SPECIFIC LIFE-CHANGE EVENTS.

2. THE MORE LIFE-CHANGE EVENTS AN ADULT ENCOUNTERS, THE MORE LIKELY HE/SHE IS TO SEEK OUT LEARNING OPPORTUNITIES.

3. THE LEARNING EXPERIENCE ADULTS SEEK OUT ON THEIR OWN ARE DIRECTLY RELATED TO THE LIFE-CHANGE EVENTS THAT TRIGGERED THE SEEKING.

4. ADULTS ARE GENERALLY WILLING TO ENGAGE IN LEARNING EXPERIENCES BEFORE, AFTER, AND DURING THE ACTUAL CHANGE EVENT. ADULTS WILL ENGAGE IN ANY LEARNING THAT PROMISES TO HELP THEM COPE WITH THE TRANSITION.

5. FOR MOST ADULTS, LEARNING IS NOT ITS OWN REWARD.

6. INCREASING OR MAINTAINING ONE'S SENSE OF SELF-ESTEEM AND PLEASURE ARE STRONG SECONDARY MOTIVATORS FOR ENGAGING IN LEARNING EXPERIENCE.

TRAINER'S ACTIONS: BEHAVIORS THAT INCREASE MOTIVATION TO LEARN

1. MAINTAIN AND ENHANCE THE SELF-ESTEEM OF PARTICIPANS.
2. FOCUS ON PARTICIPANTS' BEHAVIOR AND NOT ON PERSONALITY OR ATTITUDE.
3. ACTIVELY LISTEN TO SHOW UNDERSTANDING.
4. USE REINFORCEMENT TO SHAPE LEARNING.

MANAGING THE HOSTILE PARTICIPANT: A DIRECT APPROACH

1. MAINTAIN AND ENHANCE SELF-ESTEEM.
2. LISTEN AND RESPOND WITH EMPATHY.
3. CHECK FOR UNDERSTANDING.
4. MAKE A PROCEDURAL SUGGESTION.
5. ASK FOR HELP IN SOLVING THE PROBLEM.